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Anguilla

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I. Background information

A. Geography

1. Anguilla[1] lies 240 kilometres east of Puerto Rico, 113 kilometres north-west of Saint Kitts and Nevis and 8 kilometres north of St. Maarten/St. Martin. The Territory has a relatively flat topography, a total landmass of 96 kilometres and includes several offshore islets. The main island has a maximum length of 26 kilometres and a maximum width of 5 kilometres. The capital of Anguilla is The Valley, where 42 per cent of the population reside.

B. History

2. Originally inhabited by the Arawaks, Anguilla was first colonized by British settlers in 1650. For administrative purposes, it was associated with Saint Kitts and Nevis from 1871 to 1980. Following the dissolution of the Federation of the West Indies in 1962, Saint Kitts-Nevis-Anguilla became a State in association with the United Kingdom of Great Britain and Northern Ireland. In 1967, the Anguillan people staged a number of demonstrations in demand for secession from Saint Kitts and Nevis. The events following those demonstrations and protracted negotiations between the two parties led to the intervention of British security forces in 1969 and the enactment of the Anguilla Act of 1971, whereby the United Kingdom reassumed direct responsibility for the administration of the island, appointed a Commissioner and provided for an Island Council. A separate Constitution came into effect in February 1976. In 1980, the Territory formally withdrew from the Associated State of Saint Kitts-Nevis-Anguilla and became a separate dependency (now Overseas Territory) of the United Kingdom.

3. In 1981, further constitutional talks between the Governments of Anguilla and the United Kingdom were held. The Chief Minister of Anguilla recommended that a new constitution, while not providing for a full measure of internal self-government, should nevertheless grant a substantial degree of additional local responsibility to the Government of Anguilla. The House of Assembly of Anguilla approved the changes and the United Kingdom enabled the Anguilla (Constitution) Order to come into force on 1 April 1982. An outline of the Order is provided in the report of the United Nations Visiting Mission to Anguilla of 1984 (see A/AC.109/799, paras. 19-27).

C. Population

4. At the last census conducted in 1984, the population of Anguilla stood at 6,987.[2] However, according to information received from the administering Power, the current population of Anguilla is approximately 11,915.[3] Between 1992 and 1998 the population increased at an average rate of 3.7 per cent per year. There are also several thousand Anguillans living abroad, particularly in the United States of America, the United Kingdom and the United States Virgin Islands.[4]

II. Constitutional, legal and political issues

A. Constitutional structure

5. According to the Anguilla (Constitution) Order 1982, the Government of Anguilla consists of a Governor, an Executive Council and a House of Assembly. The Governor, who is appointed by the Queen, is responsible for defence, external affairs, internal security, public services and offshore finance. On all other matters, the Governor is required to consult with and act on the advice of the Executive Council. The Executive Council consists of the Governor as Chairman, the Chief Minister, not more than three other ministers and two ex officio members (the Attorney General and the Deputy Governor). The House of Assembly is elected for five-year terms. It comprises a Speaker, seven members elected from single member constituencies, the same two ex officio members as in the Executive Council and two members nominated by the Governor, one of whom is appointed after consultation with the Chief Minister and the leader of the opposition.

6. In March 1999, the Government of the United Kingdom issued a White Paper on the relationship between the United Kingdom and its Overseas Territories, entitled "Partnership for progress and prosperity: Britain and the Overseas Territories" (for the text, see A/AC.109/1999/1 and Corr.1, annex).

7. In February 2000, the Governor, Robert Harris, left Anguilla and was replaced by Peter Johnston.

B. Legal system

8. The law of Anguilla is the common law of the United Kingdom, together with all legislation inherited from the former Associated State of Saint Kitts-Nevis-Anguilla up to August 1971 and the local legislation enacted since that date. The law is administered by the Eastern Caribbean Supreme Court, which comprises a Court of Appeal and a High Court of Justice, courts of summary jurisdiction and magistrate courts. The Chief Justice of the Eastern Caribbean Supreme Court has announced the introduction of new initiatives to improve the functioning of the courts in the subregion, which includes Anguilla. These initiatives include the revision of the Supreme Court rules, case management, the need for court reporting throughout the subregion, computerization, unification of the Family Court, and the need for judicial reform and judicial education. According to press reports, the Anguilla Bar Association agrees in principle with the pursuit of a Caribbean Court of Justice to replace the British Privy Council as the legal redress of last resort but it does have reservations about full implementation.

C. Political parties and elections

9. As reported in the 2000 working paper (see A/AC.109/2000/15, para. 8), constitutional deadlock in 1999 led to a political crisis that was finally resolved by elections in March 2000. These elections brought to power a coalition formed by the Anguilla National Alliance (ANA) and the Anguilla Democratic Party (ADP) and led by Chief Minister Osbourne Fleming (ANA). This coalition, known as the United Front, maintained itself throughout the review period. The next elections are due before June 2005.

D. Political issues

10. In the light of the administering Power's White Paper on the Overseas Territories released in March 1999 (see para. 6 above), which called for a modernization of the relationship between the United Kingdom and each of its Overseas Territories, discussions were held between representatives of the Governments of the United Kingdom and Anguilla on 15 and 16 June 2000. As a result of those discussions, the two Governments agreed on a series of strategic objectives to promote economic and social development and democratic and accountable Government. These were embodied in a three-year strategic country programme, for 2000-2003, by which the Government of Anguilla undertook to implement a plan of action for economic and social development whose provisions included the expansion of public infrastructure, environmental management and improving public services. The Government of the United Kingdom agreed to assist in the implementation of the programme by providing £2.25 million in 2000/01, £1.7 million in 2001/02 and £1.5 million in 2002/03.

11. One aspect of both the White Paper and the strategic country programme was the requirement for Anguilla to review its Constitution to ensure that it conformed to the United Kingdom's international obligations, particularly with regard to human rights and financial regulations. In December 2000, the Government of Anguilla decided to establish a Constitutional Review Committee. The Committee decided on a two-stage review process. In the first phase, lasting from January to December 2001, information would be solicited from the general public, academics, international organizations and other Overseas Territories, with a view to assembling elements of a new Constitution that would reflect the ideas of the Territory's population and would be responsive to an increasingly globalized and technological environment. In the second phase, lasting from January to December 2002, recommendations from the consultations in phase I would be published, a popular vote would be held on the main elements of the Constitution, and drafting of the Constitution would be completed.

12. The Chairman of the Constitutional Review Committee requested the assistance of the United Nations Development Programme (UNDP) in providing information on, inter alia, the following themes: the role of the State in economy and society; sovereignty in the context of "globalized" decision-making; cooperative governance arrangements; appropriate constitutional forms for small States; methods of phasing in new constitutional arrangements; the rights, duties and responsibilities of peoples; the promotion of civil society; and

development institutions for popular participation in decision-making.

III. Budget

13. According to the 2001 budget statement of the Minister of Finance, total proposed expenditure for the Territory is EC$ 95.4 million (the Territory uses the East Caribbean dollar, which is fixed at an exchange rate of US$ 1 = EC$ 2.7). Recurrent expenditure accounts for EC$ 88 million, and capital expenditure for EC$ 7.3 million. This represents a total increase in expenditure of EC$ 13.68 million (or 16.7 per cent) over 2000. The increase in recurrent expenditure is EC$ 12.2 million (16.3 per cent) over 2000, and in capital expenditure is EC$ 1.3 million (22.1 per cent). The major increases were for the Ministry of Home Affairs (EC$ 2.74 million), the Water Department (EC$ 2.1 million) and Education and Library Services (EC$ 1.7 million).

14. The most important capital expenditures were on the initial land-acquisition phase for the Wallblake Airport expansion project, completion of the Campus B secondary school, and the improvement of roads around the island.

15. Estimated revenue for 2001 is EC$ 97.5 million. This represents an increase of EC $21.6 million (28.5 per cent) over 2000. Earnings of government departments are expected to be EC$ 19.8 million in 2001, a 34.5 per cent increase over 2000. In general, the increased expenditure of 2001 will be financed by a mix of tax and fee increases, including an increase in the accommodation tax from 8 to 10 per cent, an increase in the alcohol import duty, from EC$ 10 to EC$ 20 per gallon, and an average 50 per cent increase in motor vehicle licence fees. These increases also respond to the Government of Anguilla's agreement in the strategic country programme (see paras. 10 and 11 above) that the tax base is small and fragile, and that the Government needs to ensure adequate revenue flows through taxational measures.

16. As described in the previous working paper (A/AC.109/2000/15, para. 15), in 1998 the Government received significant revenues from the trans-shipment of cargo from non-European Union countries to European Union countries. The practice was suspended owing to the objection of several European Union members, as it deprived the European Union of tax revenues (essentially transferring those revenues from the European Union to Anguilla). A decision on the question from the European Union is apparently still pending, and the Government of Anguilla has not anticipated any trans-shipment revenues in its budget.

17. The proposed budget results in a surplus of EC$ 2.1 million. The surplus will be dedicated to a reserve fund used to help retire long-term government debt and to finance future public sector investment projects. According to the Minister of Finance, the reserve fund represents a significant commitment by Anguilla to be self-reliant. Self-reliance was a major theme of the budget address, and clearly constitutes a concerted policy direction for the island. The Minister noted that the budget included no provision to borrow in order to meet expenditure needs, and that it was a core fiscal policy objective to adhere as closely as possible to the principle of a balanced budget. He said that the recent policy decisions of the community of developed nations, and particularly the new focus of the development community on poverty reduction for the world's poorest countries, had forced Anguilla, whose per capita gross domestic product (GDP) was comparably high, to become self-sufficient rather than to rely on bilateral or multilateral aid.

IV. Economy

A. General

18. Anguilla's economy has continued to grow over the past two years, particularly in the tourism and construction sectors. According to the Government of Anguilla, total output in current prices for 1999 was EC$ 233 million. This represented a growth in real terms of 8.2 per cent. Much of the growth came from the construction sector, as the Government, businesses and homeowners rebuilt following hurricanes José and Lenny.[5] According to government figures, inflation was 2.6 per cent, marginally higher than in 1998.

19. Preliminary estimates indicate that the economy slowed in 2000, growing by only 1 per cent. In large part this was the result of a slump in tourism, the largest contributor to the GDP (see paras. 27-30 below), following the closure of several hotels for repair and refurbishment after being damaged by hurricane Lenny. Given tourism's important multiplier effect on the economy, its decline affected employment

and other sectors. The sector is expected to recover, however, and analysts say long-term growth perspectives are favourable.[6]

20. Anguilla has few natural resources and its economy is dominated by tourism, construction and financial services. The Government itself represents a gradually rising share of the economy. In 1999, government services accounted for 13.6 per cent of the real GDP. This was an increase of 4.2 per cent from 1998, and made Government services the third highest contributor to the GDP. Both higher levels of recurrent government expenditure as well as public sector salary increases helped account for the public sector's rising share of the GDP. The Government considers its role in the promotion of the economy to be critical, and for this reason sought in its 2001 budget to increase its revenues. Part of this increase will be derived from improved collection measures and enhanced services. The Government also anticipates a gain in new revenues with the opening of its domain name registry service (see para. 35 below), and by privatizing the Anguilla Electric Company (Anglec). With regard to the latter, in 2001 the Government of Anguilla will make an initial public offering of its Anglec shares within Anguilla and the East Caribbean subregion. In his budget speech, the Chief Minister called for the creation of a joint Government-Anglec task force to be created with the mandate of implementing the privatization by 31 October 2001. The Government expects to raise more than EC$ 6 million on the sale in 2001, noting that the company has been a financial success and that the market value of its shares should greatly exceed their book value.

21. According to the strategic country programme for 2000-2003 (see para. 10 above), the Government of Anguilla agreed to the necessity of diversifying its economy so as to reduce its vulnerability to external shocks. In particular, three objectives were delineated: (a) to encourage the growth of new industries and business activities; (b) to maximize tourist industry benefits, in part by encouraging local ownership of tourist-related businesses and the creation of local employment; and (c) to promote equitable and "pro-poor" economic growth to ensure that economically marginalized groups are actively targeted.

B. Economic sector

1. Agriculture and fishery

22. Agricultural activity in Anguilla is extremely limited by a combination of factors, including poor soil, the small amount of arable land and irregular rainfall. Notwithstanding the prevailing dry conditions and the unpredictable rainfall patterns existing in Anguilla, agriculture continues to play an important part in the livelihood of the local people (see A/AC.109/2016, paras. 14 and 15) and typically contributes between 3 and 4 per cent of the GDP.

23. Recent agricultural initiatives include the expansion of the drip irrigation system, promotion of commercial fruit production, horticultural development and backyard gardening. The principal crops are pigeon peas, sweet potatoes and maize. Other activities have centred around the commercial development of poultry farming, rabbit production and bee-keeping. New techniques in livestock production and fodder conservation are being developed.

24. According to the territorial Government, there was a decrease of 11 per cent in agricultural activities in 1999 owing to the destruction of crops and livestock as a result of hurricane Lenny. The hurricane also interrupted the long-line fisheries development project, which is in part funded by the administering Power's Department for International Development.

2. Manufacturing/industry

25. Construction was the second largest contributor to the GDP in 1999 (after tourism). Output was recorded at EC$ 37.9 million, or 16.2 per cent of the GDP, an increase of 21 per cent over 1998. Private sector construction was led by the development and rehabilitation of housing stock following hurricane Lenny, as well as continued construction of three new hotels and a new building for the National Bank of Anguilla. The Government's public sector investment programme also boosted the construction sector, as it provided funds for the construction of new courthouse and parliament buildings. In the first two quarters of 1999, 98 building permits were issued, 64 for residential construction, 21 for tourist accommodation and 10 for business construction. This represented a 27 per cent decrease from the same period in the previous year, foretelling a possible slowdown in the sector.

26. The small mining and manufacturing sector comprises salt production, building-block manufacturing and shipbuilding. The sector typically contributes around 2 per cent of the GDP.[4] According to the Government, manufacturing grew by 60 per cent in 1999, mining and quarrying by 9.2 per cent and electricity and water by 20.3 per cent. This relatively strong performance is mostly owing to increases in the construction sector, on which mining and manufacturing are rather dependent.

3. Tourism

27. Tourism continued to be the largest contributing sector to the GDP in 1999. Total receipts from tourism were EC$ 70 million, or about 30 per cent of the GDP. The total number of visitors in 1999, however, at 106,729 was down 6 per cent from 1998, when there were 113,796 visitors to the Territory. Much of this decline was attributed to the effects of hurricane Lenny, which hit the island in November 1999, discouraging visitors during the winter high season. The number of vacationers and businessmen increased, continuing the upward trend of the past few years, but the number of excursionists declined sharply, from 69,992 to 59,947.

28. Taxes on tourism continued to be an important source of fiscal revenue. Receipts from the embarkation tax were EC$ 1.8 million in 1999, slightly higher than in 1998. Accommodation tax revenues increased marginally from EC$ 6.3 million in 1998 to EC$ 6.6 million in 1999. The Government estimated, however, that visitor expenditure on accommodation, meals, transport, entertainment, souvenirs and gifts had decreased by nearly 2 per cent, from EC$ 58.1 million in 1998 to EC$ 56.5 million in 1999.

29. Preliminary figures for 2000 suggest, as anticipated, that the effects of hurricane Lenny were continuing to be felt during the 2000 tourist season. Stopover tourist arrivals between January and September 2000 were 33,103, a 12.7 per cent decline over 1999.

30. The Chief Minister identified in his budget address, inter alia, the following key priorities for tourism: (a) continued work on the development and implementation of an integrated tourism policy; (b) completion of a strategic marketing plan; (c) development of a business support programme for small local tourism enterprises; and (d) preparation of a medium duty-free shopping policy in conjunction with the Ministry of Finance. The Government also stated its commitment to taking steps to ensure that visiting yachts paid all the required fees to operate in Anguilla's waters, especially yachts from St. Maarten/St. Martin that exploit Anguilla's marine resources while contributing nothing to its economy.

C. Finance

31. Anguilla is a zero-tax jurisdiction promoted for offshore banking and insurance. Since 1995 the territorial Government has been developing a comprehensive package of corporation and offshore financial business legislation, including the Companies Ordinance, the Limited Liability Companies Ordinance and the International Business Companies Ordinance. Costs for the formation and licensing of companies in Anguilla are competitive, as are company management fees. Among the incentives that apply to the establishment of offshore banks and trusts are that there are no exchange controls or restrictions on transfers of security and earnings may be retained offshore and repatriated freely.

32. So far, fewer than 5,000 companies have been incorporated in Anguilla compared, for example, to the tens of thousands that are incorporated each year in the nearby British Virgin Islands. Nonetheless, banking and insurance activity represented EC$ 30.34 million in 1999, corresponding to 13 per cent of the Territory's real output. This represented an increase of 2.9 per cent over 1998. According to the Government, the sector's growth can be attributed to the increased profitability of commercial banks.

33. At the same time, the management of Anguilla's financial sector, like that of the other Overseas Territories, has recently been subject to review and criticism from the Organisation for Economic Cooperation and Development (OECD) and the Group of Seven most industrialized countries. In a report released in June 2000, OECD listed Anguilla as one of 35 jurisdictions classified as a "tax haven", that is, those whose tax regimes were considered to be potentially harmful to the rest of the world. OECD hopes to work with those jurisdictions to eliminate the "harmful features" of their regimes prior to July 2001, after which sanctions might be imposed. Following protests by the blacklisted countries over the unilateral and inflexible approach of OECD, an agreement mediated by the Commonwealth was reached in

January 2001, according to which OECD would create a working group to address the problem in a more multilateral and cooperative fashion.[7] Further talks were held in March 2001, in which new ideas were said to have been put on the negotiating agenda in a climate of "improved understanding and progress". OECD said afterwards that it had not changed its fundamental position regarding the need for reforms by July 2001.[8]

34. A further report on Anguilla's financial sector was issued in October 2000 by the consulting firm KPMG. This was an independent evaluation commissioned by the United Kingdom Government and its Overseas Territories (see A/AC.109/2000/15, para. 30) to provide recommendations as to how the Territories might develop accepted norms of regulation in its financial services sector. The KPMG report considered in general that "Anguilla has many of the features necessary to be considered a well-regulated jurisdiction", and noted in particular Anguilla's Commercial Online Registration Network (ACORN), which became operational in 2000. The ACORN system allows entrepreneurs to register a company online within 10 minutes (other Caribbean jurisdictions take at least a full day).[9] The report made a number of recommendations by which Anguilla would improve its regulatory environment. These included making the regulatory authority independent from the Government, bringing the regulatory and reporting standards regarding domestic and captive insurance activities up to the standards of the International Association of Insurance Advisers, and appointing a single regulator for both domestic and offshore banking. In response, the Government of Anguilla noted that the report made a number of positive recommendations, which had already been recognized by the Government as good practice. Those that had not yet been implemented would be prioritized and implemented by September 2001. The Government did not accept all the KPMG recommendations, however, rejecting for example the call to make information about the directors of private companies publicly available.[10]

35. Anguilla has also been positioning itself to take advantage of Internet-based commerce. In April 2000, the Government established the E-Commerce Task Force to provide advice and support in developing an e-commerce strategy for the Territory. The Government is likely to seek ways to use its zero-tax policy to encourage Internet companies — which can generally operate from anywhere — to register in the Territory. The Government expects to receive EC$ 4 million from the registration of internet domain names in 2001.

D. Transport and communications

1. Roadways

36. According to 1998 estimates, Anguilla has a total of 279 kilometres of motorable roads, of which 253 are paved. The continuation of the Government's road improvement programme was the second priority of the capital budget (after development of the airport). In 2000, the Government spent EC$ 5 million on roads, most of it financed by the National Bank of Anguilla and the Caribbean Commercial Bank. In its 2001 budget, the Government committed EC$ 15 million to road improvement. Of this, EC$ 10 million would come from a loan from the Caribbean Development Bank, and EC$ 5 million would come from grant funds from the European Development Fund.

2. Seaports

37. Anguilla has two ports, one at Blowing Point and the other at Road Bay. In December 1998, Anguilla had five ships registered with Lloyds of London, with a total displacement of 1,387 tons.[4] In its 2001 budget, the Government proposed transforming the Seaport Department into its own corporate entity for long-run sustainable and autonomous funding.

3. Airports

38. Anguilla has three airports, two of which are unpaved and have runways less than 1,000 metres long. The main airport, Wallblake Airport, is paved and has a runway of 1,100 metres. As there are no refuelling facilities, aeroplanes can only land when carrying enough fuel to return, limiting the loads they may carry. The Government's top capital expenditure priority in 2001 is the acquisition of land near the airport in order to begin expanding the airport in 2002. As with the Seaport Department, the Government has proposed transforming the Airport Department into a separate corporate entity capable of raising its own financing.

4. Communications

39. Anguilla has a modern internal telephone system and a microwave relay to St. Maarten/St. Martin for international calls. The system is operated under a

monopoly by the British company, Cable and Wireless, which has a number of Caribbean franchises. According to the Government's budget, in 1999, the communications sector accounted for 11.9 per cent of the real GDP, an increase of 9.4 per cent from 1998. The increase was attributed to the continued expansion by telecommunications and cable television companies.

E. Water system, sanitation system and utilities

40. In general, the Government has committed itself in the strategic country programme formulated with the administering Power (see para. 10 above) to improve the quality of its public utilities infrastructure. In particular, according to its 2001 budget, the Government listed expanding access to public water as one of its infrastructural priorities, along with increasing purchases of water from private producers for distribution to consumers. This measure responds to water shortages that occurred in 2000. The Government expected a shortfall of EC$ 2 million in revenue from water sales in 2000, but said that the problem would be nearly solved by 2001, when the Government expects to increase water revenues from EC$ 3 million to EC$ 7.5 million. This substantial increase is expected to result from an agreement signed with Ionics-Aqua Design to increase its sales to the Government from 500,000 gallons to 750,000 gallons daily in 2001.

V. Social conditions

A. General

41. Living standards and social indicators in Anguilla compare favourably with other countries in the region. The literacy rate is 95 per cent, life expectancy is 76 years (73 for men and 79 for women) and the infant mortality rate is 25 deaths per 1,000 live births.[11]

42. Anguilla has had a social security scheme since 1982. In the 2001 budget, the Government announced plans to establish a permanent programme within the Social Security Board to assist the elderly and other economically deprived groups, regardless of whether or not they had contributed to the social security fund. The initiative would raise EC$ 1 million in new contributions in 2001. Government expenditures on health, education, law and order, and administration services accounted for EC$ 31.7 million in 1999 (13.6 per cent of the GDP).

B. Labour

43. According to the most recent census, in 1992, the economically active population in Anguilla (that is, persons aged 14 years and over) numbered 4,446 (2,553 males and 1,893 females). At that time, 35 per cent worked in tourism, 23.5 per cent worked in community, social and personal services, 18 per cent worked in construction and 5.2 per cent worked in financing and insurance. Unemployment was 7 per cent.[4]

C. Education

44. Education is free and compulsory between the ages of 5 and 14 years. There are six government primary schools and one government secondary school, the Albena Lake-Hodge Comprehensive. As part of the government policy to enable Anguilla to meet both its present and future needs, the problem of overcrowding is being addressed by the construction of another campus, as well as the implementation of curriculum reforms.

45. Government priorities for education for 2001 include the opening of the Campus B secondary school, continuation of the institutional strengthening and management development components of the secondary school development project; and implementation of programmes under the five-year education development plan, including the establishment of governing and management boards for secondary and primary schools and the improvement of discipline, particularly in secondary schools. The total budget allocation for education in 2001 was EC$ 12.5 million, compared with EC$ 11.8 million in 2000 and EC$ 10.5 million in 1999.

D. Public health

46. The Government remains committed to providing primary health care for all Anguillans. The Territory is served by the 24-bed Cottage Hospital and the Princess Alexandra Hospital, a 36-bed facility financed by the United Kingdom.

47. The 2001 budget allocation for primary health care was EC$ 4.3 million, an increase over the 1999 budget of EC$ 3.8 million. Of the total, EC$ 30,000 was designated for the national AIDS programme. In addition, EC$ 8.4 million was budgeted for secondary health care, which includes funding for the Princess Alexandra Hospital. This represents a significant increase (more than 20 per cent) over the EC$ 6.9 million approved in 2000, and the EC$ 6 million actually spent in 1999.

48. The Government listed as its health priorities in 2001 the conversion of the Princess Alexandra Hospital to a statutory health authority; the strengthening of the Primary Health Care Department; expansion of mental health and psychiatric services; development of the Environmental Health Section of the Primary Health Care Department; and improvement in the coverage and quality of solid waste disposal services.

E. Immigration

49. Anguilla's rapid economic development over the past decade in particular has created a demand for labour from outside the island. In 2000, the net migration rate was 19.75 migrants per 1,000 inhabitants.[11] Immigration was regulated according to Anguilla's Immigration and Passport Ordinance and its Control of Employment Ordinance, both enacted in 1980. According to the latter Ordinance, work permits cannot be granted for more than four years, except in cases where the skills of the person are considered to be critical to the development of Anguilla. The Ministry of Home Affairs, which governs the Immigration and Labour Department, suspects that a number of expatriate workers have remained on the island illegally, beyond the expiration of their work permits. According to the Ministry's 2001 policy, those who are illegally residing on the island may be favourably considered for Permits of Permanent Residence if they have been continuously resident in Anguilla for at least 10 years and if they submit an application for permanent residence by 31 December 2001.

50. The Department also noted the need to harmonize its immigration policy with the British Nationality Act of 1981 and the European Convention on Nationality, particularly with respect to residence without immigration restrictions, statelessness and basic human rights relating to residence status. In order to better manage its immigration policy, the Government proposed in its 2001 budget the restructuring of the Immigration and Labour Department as two separate departments within the Ministry of Home Affairs.

51. In accordance with its intentions announced in the White Paper on the Overseas Territories, the United Kingdom Government offered British citizenship, along with the right of abode, to qualified residents of the Overseas Territories. Originally, the administering Power had suggested that that citizenship and right of abode should be reciprocal between the Overseas Territories and the United Kingdom, but ultimately agreed to drop reciprocity, acknowledging that the size of the Territories and their populations would not allow the influx of possibly large numbers of outsiders. People who take advantage of the new status will gain the right to travel freely throughout the European Union.[12]

F. Human rights and related issues

52. The Territory is subject to certain major human rights conventions that were acceded to by the administering Power. These include the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

53. Human rights issues in the Overseas Territories were addressed by the administering Power in the White Paper (see para. 6). With respect to the possibility of introducing reform of current legislation banning homosexual acts, the former Chief Minister of Anguilla expressed his opposition to initiating a bill to such effect in the Anguilla House of Assembly.

54. In December 2000, the United Kingdom Privy Council amended the laws of all British Caribbean Overseas Territories to decriminalize private homosexual acts between consenting adults. This action was taken after Governments of Overseas Territories informed the United Kingdom that they would not reform their own legislation on the question.[13]

G. Crime

55. The crime rate in Anguilla is relatively low by regional standards. The Government, however, has

noted an increase in crime, which it said required a strengthening of the Prison Service. The Government therefore proposed an increase of EC$ 171,152, one of the largest percentage increases in the budget (31.3 per cent compared with 2000). The Prison Service will focus on the development of professional cadre of prison officers who are trained in techniques of criminal rehabilitation. The Government also proposed to increase funding to the Royal Anguilla Police Force by EC$ 288,478 (7.3 per cent compared with 2000). The increase is primarily to allow the police to expand its training programme.

56. According to an international narcotics control strategy report on the Caribbean issued by the United States Department of State in March 1999, in general the British Overseas Territories in the Caribbean are not significant drug-producing locations but Anguilla's geographical position makes it a prime trans-shipment route, particularly vulnerable to airdrops of cocaine in the surrounding seas and offshore islands. However, cooperation among Anguillans, French and Dutch officials in St. Maarten/St. Martin is good. Senior police officers routinely hold joint meetings to address issues and exchange drug-related information. The French authorities in St. Martin have become more active in taking measures to reduce the transfer of small quantities of drugs to Anguilla via passenger ferry. Nonetheless, recent reports suggest that narcotics-trafficking organizations may be increasing their transit and money-laundering operations in the eastern Caribbean, and Anguilla is a likely target of this expansion.[14]

VI. Environment

57. In addition to the environmental programmes described in the previous working paper (see A/AC.109/2000/15, paras. 32-34), the Government of Anguilla is committed to an action plan on the environment as part of its strategic country programme agreement. The action plan (see para. 10 above) commits the Government, inter alia, to the following actions: promoting high-quality environmental appraisal within the planning and development process to ensure that environmental risks are integrated into development projects; developing a capacity within government and civil society to implement environmental management systems; establishing protected areas for key terrestrial and marine habitats; implementing an effective national fisheries management plan; introducing air, noise and litter pollution measures by mid-2001; developing a solid-waste collection and disposal system; and maintaining standards of water quality control.

VII. Relations with international organizations/arrangements

58. The Government of Anguilla cooperates directly with other Caribbean Governments and participates in regional conferences and projects organized by Governments and regional and international organizations and agencies. The first UNDP country cooperation framework for Anguilla, which was approved by the Executive Board in 1997 for the period January 1997 to December 1999, was extended to December 2000, owing to the fact that national development priorities have not changed and therefore the component projects of the framework remain relevant (see DP/CCF/ANL/1/EXTENSION 1). The Territory is a member of the Caribbean Development Bank, the University of the West Indies and the Eastern Caribbean Central Bank, and holds observer status in the Organization of Eastern Caribbean States. The Territory is represented at the annual meetings of the Caribbean Group for Cooperation in Economic Development, sponsored by the World Bank. On 28 September 1999, Chief Minister Hughes addressed the General Assembly at its special session on the implementation of the 1994 Programme of Action for the Sustainable Development of Small Island Developing States on behalf of Anguilla, the British Virgin Islands, the Turks and Caicos Islands and Montserrat. Anguilla had participated in the Global Conference on the Sustainable Development of Small Island Developing States in 1994 as a member of the United Kingdom delegation. The Chief Minister stated that because Anguilla had a tourist economy, the island had a high per capita income and as a consequence did not qualify for many United Nations aid programmes. He said that while it was true that very high wages were paid out to the 10 per cent top-paid expatriate technical and managerial staff in the tourism and now growing financial services industries, the bulk of the local workers were paid very small wages. He felt that that was unfair and that that means of assessing the needs of the Territory should be revisited.

59. As a British Overseas Territory, Anguilla's relationship with the European Union is governed by Britain's legislation and British agreements with its European partners.

VIII. Future status of the Territory

A. Position of the territorial Government

60. As discussed above (see paras. 11 and 12), a constitutional review is currently being undertaken by the Constitutional Review Committee, set up by the territorial Government in cooperation with the administering Power and with the assistance of UNDP.

B. Position of the administering Power

61. In addressing the Fourth Committee of the General Assembly on 26 September 2000, the representative of the United Kingdom said that over the past year further progress had been made towards the modernization and development of the relationship between the United Kingdom and its Overseas Territories. The inaugural meeting of the Overseas Territories Consultative Committee had taken place in 1999, and the second meeting was to be held in London on 3 and 4 October 2000. The meeting provided a forum for structured political dialogue and exchange of views between the elected representatives of the Overseas Territories and the United Kingdom Government concerning the management of public affairs and the future development of the Overseas Territories. The representative said that her Government provided support to Territories afflicted by disaster, and offered a wide range of development assistance to those Territories which needed it. At the same time, in the spirit of partnership, it continued to promote sustainable development under strategic country programmes. She said that for her Government the wishes of the peoples concerned, exercised in accordance with the Charter of the United Nations and other international treaties, were of paramount importance. The relationship continued to be based on the principles of self-determination, mutual obligations, freedom for the Territories to run their affairs to the greatest degree possible, and a firm commitment from the United Kingdom to help the Territories economically and to assist them in emergencies. She said that her Government welcomed the efforts made by the Special Committee to pursue informal dialogue with the administering Powers in order to ascertain the wishes of the peoples of the Territories with a view to the possible removal of those Territories from the Special Committee's list (see A/C.4/55/SR.4, paras. 1-4).

62. According to the Foreign and Commonwealth Office,[15] on 6 December 2000, Baroness Scotland, Under-Secretary of State for Foreign and Commonwealth Affairs, reaffirmed that the Government of the United Kingdom remained committed to introducing legislation as soon as possible to ensure that the United Kingdom's offer of citizenship, as outlined in the White Paper on the Overseas Territories (see A/AC.109/1999/1 and Corr.1, annex), was delivered (see para. 51 above). She also said that her Government had initiated a consultation process with the Overseas Territories on issues relating to the legislation and its implementation. The process put her Government in a prime position to act as soon as the bill became law.

C. Consideration by the United Nations

63. On 8 December 2000, the General Assembly adopted resolution 55/144 B, section II of which is specifically devoted to Anguilla.

Notes

[1] The information contained in the present report has been derived from published reports and from information transmitted to the Secretary-General by the Government of the United Kingdom of Great Britain and Northern Ireland under Article 73*e* of the Charter of the United Nations.

[2] *United Nations Population and Vital Statistics Report*, Statistical Papers, Series A, vol. LII, No. 1 (January 2000).

[3] United Kingdom White Paper, "Partnership for progress and prosperity", appendix I, March 1999.

[4] *Europa World Yearbook 2000*, 41st ed., vol. II, "United Kingdom Overseas Territories: Anguilla".

[5] Government of Anguilla, "Estimates of recurrent revenue, expenditure and capital budget 2001".

[6] Economist Intelligence Unit (EIU) Country Briefing, "Caribbean Economy", 14 February 2001.

[7] *Financial Times*, Country Briefing, 16 January 2001.

[8] Reuters, 3 March 2001.

[9] Reuters, 1 October 2000.

[10] Government of Anguilla, press release, 9 February 2001.

[11] *CIA World Factbook 2000* (www.cia.gov/cia/publications/factbook/geos/av.html).

[12] Foreign and Commonwealth Office, "Focus International", July 2000.

[13] *The Island Sun*, 21 December 2000.

[14] Janes Information Group, "Central America and the Caribbean Risk Pointers — Anguilla", 17 August 2000.

[15] www.fco.gov.uk/news.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

New Caledonia

Working paper prepared by the Secretariat

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I. General

1. New Caledonia[1] is located in the Pacific Ocean, about 1,500 kilometres east of Australia and 1,700 kilometres north of New Zealand. It comprises one large island, known as Grande Terre, and smaller islands known as the Loyalty Islands (Ouvéa, Maré, Lifou and Tiga), the Bélap Archipelago, the Isle of Pines and Huon Islands. There are also several uninhabited islands to the north of the Loyalty Islands. The area of Grande Terre is 16,750 square kilometres, and that of the Territory is 19,103 square kilometres. Nouméa, the capital, is located in the south of Grande Terre. The Territory is divided into three provinces, South and North (on Grande Terre) and the Loyalty Islands.

2. According to the 1996 census, the population was 196,836, comprising indigenous Melanesians known as Kanaks (42.5 per cent); persons of European origin, mainly French (37.1 per cent); Wallisians (8.4 per cent); Polynesians (3.8 per cent); and others, mainly Indonesians and Vietnamese (8.2 per cent). The census also showed almost half the population to be under 25 years old. In January 1999, the estimated population was 206,001. The majority of the population (68 per cent) lives in the South Province, mainly around the greater Nouméa area, while 21 per cent live in the North Province and only 10.6 per cent in the Loyalty Islands. In 1996, the native Kanak population made up 77.9 per cent of the population of the North Province and 97.1 per cent of the population of the Islands, whereas it only made up 25.5 per cent of the population of the South Province. With respect to the Territory's second largest population, persons of European origin, 89 per cent of them live in the South Province. About 60 per cent of the population is Catholic and 30 per cent Protestant; 10 per cent profess other religions. The official language is French, and about 28 Melanesian-Polynesian dialects are spoken.

3. The Nouméa Accord (A/AC.109/2114, annex), signed in May 1998 between the Government of France, the pro-independence Front de libération nationale kanak socialiste (FLNKS) and the integrationist Rassemblement pour la Calédonie dans la République (RPCR), has fundamentally altered the political and administrative arrangements in New Caledonia. Under the terms of this Accord, the New Caledonian parties opted for a negotiated solution and progressive autonomy from France rather than an immediate referendum on political status. The transfer of powers from France began in 2000 and is to end in 15 to 20 years, when the Territory will opt for either full independence or a form of associated statehood. The political and legislative process which is under way and the new institutional arrangements in place in New Caledonia are described in chapter II. The characteristics of New Caledonia's economy and employment as well as current efforts to implement a policy of redressing economic and social imbalances between the more prosperous South Province and the less developed North Province and Loyalty Islands are described in chapter III.

II. Political situation

A. Background

4. The Nouméa Accord provided for a number of steps towards a negotiated consensual solution for the future of the Territory. As stated in the Preamble to the Agreement, "this solution will define the political organization of New Caledonia and the arrangements for its emancipation over the next 20 years". Among the steps to be taken were constitutional amendments, the creation of new institutions, the full recognition of Kanak identity and rights, the establishment of parameters for the electorate and the gradual transfer of powers from the French State to New Caledonian authorities.

5. On 6 July 1998, the French Parliament passed a constitutional reform by 827 votes to 31 that inserted two articles, 76 and 77, into the French Constitution. Article 76 provided that the people of New Caledonia would be called upon before 31 December 1998 to express their views on the provisions of the Nouméa Accord. Article 77 provided that, following approval of the Accord, a Constitution would be submitted to a vote in Parliament in order to enable New Caledonia to move forward on the basis of the Accord.

6. Prior to the referendum, the two major parties of New Caledonia, FLNKS and RPCR, had both campaigned for approval of the Accord among their respective constituents. The Accord was ratified by New Caledonians in a referendum held on 8 November 1998. With 74 per cent of the electorate voting, 72 per cent voted in favour of the Accord.

7. Following the referendum, the Secretary of State for Overseas Territories of the Government of France issued a communiqué pointing out that the Nouméa Accord provided for the renewal of relations between France and New Caledonia and would be translated into a draft organic law. This organic law and an ordinary law were presented in the French Parliament. The organic law codified the matters addressed in article 77 of the constitutional reform, namely, the powers that would be transferred to the newly created institutions in New Caledonia, the organization of those institutions, rules concerning New Caledonian citizenship and the electoral regime and conditions and deadlines by which New Caledonians would determine their accession to full sovereignty. The ordinary law dealt with other, mainly economic and social, matters covered in the Nouméa Accord. The French legislature ratified both laws on 19 March 1999.

8. The issue of eligibility to vote in future elections in New Caledonia also required legislative action during 1999 (see A/AC.109/2000/4, para. 22, for coverage of the matter). Still pending is the scheduling of a special session of the French Congress (a joint sitting of both the National Assembly and the Senate) to ratify a constitutional amendment related to voter eligibility (see paras. 58 to 60).

B. The new governmental structure

9. The governmental structure created as a result of the entry into force of the above-mentioned organic law is set out below.

10. The Congress is the deliberative assembly of New Caledonia. It comprises 54 members, consisting of 7 from the Provincial Assembly of the Loyalty Islands, 15 from the Provincial Assembly of the North Province and 32 from the Provincial Assembly of the South Province. Members are elected for five years.

11. The Government is the executive of New Caledonia. It is elected by the Congress and is responsible to it. It is composed of between 5 and 11 members, the exact number to be fixed by Congress prior to the election of the Government. The Government prepares and executes the decisions of Congress. The Government names public and administrative officers, oversees the execution of public works, manages local resources, gives its opinion regarding projects that involve the mines in the Territory and prepares the codification of the Territory's laws.

12. The provincial assemblies are responsible for all matters relating to the province that are not directly attributed to the President of the Provincial Assembly. The President of the Provincial Assembly acts as the executive of the province and, as such, is responsible for the administration of the province and the management of public employment at the provincial level. Members of the Assembly are elected for five years.

13. The Economic and Social Council advises the Government on projects and possible laws that have an economic or social character. It comprises 28 representatives of professional, labour and cultural organizations, 2 members designated by the Customary Senate and 9 personalities that are representative of the economic, social and cultural life of New Caledonia designated by the Government on the advice of the provincial assemblies.

14. The customary councils are a parallel set of institutions in eight areas and are designed to accommodate the full political recognition of the Kanak identity. In addition, there is a Territory-wide Customary Senate, comprising 16 members, 2 selected by each customary council. The Customary Senate is represented in the Economic and Social Council, the Administrative Council, the Consultative Council on Mines and local development agencies. The Customary Senate and the councils are to be consulted by the executive and legislative organs of New Caledonia on matters that have to do directly with the Kanak identity.

C. Recent developments

15. Following the ratification of the Nouméa Accord by the people of New Caledonia and the codification of its provisions into French law as described in paragraphs 5 to 7 above, New Caledonia is no longer considered an overseas territory under article 74 of the Constitution. Instead, the Government of France describes it as a community sui generis which has institutions designed for it alone and to which certain powers of State will gradually be transferred and will be non-revocable. Accordingly, the establishment of new institutions proceeded throughout 1999 according to an agreed timetable. In turn, 2000 was the first complete year during which the new institutions of

New Caledonia were expected to exercise their prerogatives.

16. In May 1999, elections were held for the provincial assemblies and Congress. In the voting for the provincial assemblies, for a total of 74 seats, RPCR obtained a majority in the South Province while FLNKS obtained a majority in the other two provinces. Of those voted into the provincial assemblies, 54 then became members of New Caledonia's Congress. Thus, RPCR obtained a relative majority of 24 seats in Congress, followed by FLNKS, which obtained 18 seats.[2] In July 2000, the elections were repeated in the Loyalty Islands after the French State Council ruled that there had been irregularities in the handling of proxy votes. The results confirmed the majority held by the FLNKS coalition in the Loyalty Islands provincial assembly and, consequently, the Congressional balance remained unchanged. RPCR Senator Simon Loueckhote was subsequently re-elected Chairman of Congress, defeating the FLNKS nominee Richard Kaloï by 33 votes to 18.[3]

17. Congress elected the first Government of New Caledonia on 28 May 1999. Presided over by Jean Lèques (RPCR), Mayor of Nouméa, the Government had 11 members, six from RPCR, four from FLNKS and one from the Fédération des comités de coopération indépendantistes (FCCI), a dissident offshoot of FLNKS allied with RPCR. During the municipal elections, held in New Caledonia from 11 to 18 March 2001, President Lècques was re-elected Mayor of Nouméa. He then announced that he wanted to give priority to his responsibilities as Mayor and that he would step down from the Presidency of the Territory.[4] His resignation automatically required the resignation of his Government and new elections to be held by the 54 members of Congress.[5] On 5 April 2001, Pierre Frogier, member of the RPCR and of the French National Assembly, was elected New Caledonia's second President. Déwé Gorodey of the FLNKS was elected Vice-President. A Kanak university professor, Gorodey is the first woman to hold this position; she also remains in charge of culture, youth and sports.[6] The new Cabinet still reflects an integrationist majority of 7 out of 11 seats; RPCR holds six portfolios and its ally FCCI holds one. On the pro-independence side, FLNKS received three portfolios and one of its components, Union Calédonienne, received one.

18. The Customary Senate, considered the guarantor of Kanak identity, was formally constituted on 27 August 1999. The 16 new senators elected as their first president High Chief André Théan-Hiouen, traditional leader of the Tarana area and representing the Hoot Ma Waap constituency, north of Nouméa. The Customary Senate has a rotating presidency in order to accommodate each of the seven customary areas. Thus, High Chief Théan-Hiouen was recently succeeded by High Chief Wanabo of the Laai area. During the past year, the members of the Customary Senate made official visits to metropolitan France (from 5 to 17 October 2000) and to Benin (from 31 October to 21 November 2000).

19. After a delay of several months, New Caledonia's Economic and Social Council was formally established on 2 February 2000. Headed by Mr. Bernard Paul (RPCR), the Council is composed of 39 members, of whom 28 represent professional organizations, labour unions and associations which reflect the economic, social and cultural life of New Caledonia. The Council continues to be consulted by Congress on all economic and social matters.

20. As foreseen by the Nouméa Accord, in 1999 the new institutions began to enact "laws of the country" (lois de pays), which have the full force of the law and can only be contested before the Constitutional Council. The first "law of the country", which was unanimously approved by Congress on 19 October 1999, renewed for two years the national health coverage for medical practitioners, dentists and nurses. In November 1999, another "law of the country" was passed, this time to reinstate a general tax on services. The President of the Provincial Assembly of the Loyalty Islands (FLNKS) challenged the constitutionality of such a measure but, in January 2000, France's Constitutional Court declared the measure constitutional. Four additional "laws of the country" on fiscal matters were enacted during 2000, while an additional two, on labour issues, were enacted in January 2001.

21. In addition, as set out by the Nouméa Accord, the French State began to transfer, as of 1 January 2000, the following services and jurisdictions to the Government of New Caledonia:

Imposition and allocation of taxes to benefit funds for the territorial collectivities, public establishments or public service agencies; imposition of taxes, provincial and community taxes;

Guiding principles of labour law, occupational training and labour inspection; access to local employment;

Work by foreign nationals;

Sanitary controls at borders;

Customary civil status: customary lands and "palavers"; delimitation of customary areas; modalities for designating the Customary Senate and customary councils;

Foreign trade; import regulations;

Regulation of direct foreign investment;

External postal and telecommunications services;

Navigation and external shipping services; registration of ships;

External air services, except the air service between New Caledonia and other points of the territory of the French Republic;

Exploration, exploitation, management and conservation of the resources of New Caledonia's exclusive economic zone;

Regulations concerning fuel oils, nickel, chromium and cobalt;

Hospital establishments;

Primary education: curricula, teacher training and inspection of teachers;

Rules applicable to cooperative societies and mutual insurance;

Powers exercised in association between the State and New Caledonia: external relations; entry and stay of foreign nationals; law and order; gambling; audio-visual communication; research, higher education; and secondary education.

22. It is also foreseen that several State bodies may be transferred to the New Caledonian authorities following requests from Congress. According to the Government of France, measures are currently under way for the transfer during 2001 of the Institut de Formation des Personnels Administratifs (IFPA) and the Office des Postes et Télécommunications (OPT). Also requested by Congress is the transfer of State shares in ENERCAL, the company which produces almost all of the Territory's electrical power. Still pending to complete the administrative reorganization of the Territory is the signature of seven conventions between the French State and the Government of New Caledonian covering inter alia, the administration of civil aviation agriculture, maritime affairs and judicial protection of youth.

23. In spite of the considerable institutional and administrative advances described above, progress has been hindered in the past two years by the friction between RPCR and FLNKS due to their differing interpretations of "collegiality" in government matters. The debate grew out of the absence of any precise definition of collegiality in organic law No. 99-209 of 19 March 1999, article 128 of which states simply that the Government is responsible collegially and jointly for matters within its competence. At that time, the election of Léopold Jorédié, a member of FCCI, for Vice-President, rather than Roch Wamytan, President of FLNKS and a signatory to the Nouméa Accord, was judged contrary to the spirit of the Accord by part of the pro-independence camp. Following this, the FLNKS members of the Government chose to appeal to the administrative courts and lodged several appeals against congressional resolutions and government decrees. According to information provided by the Government of France, some of the appeals of FLNKS on formal grounds have had budgetary consequences, such as the annulment of certain tax revenue allocated to the employment agency, rural development and the tourism promotion campaigns.

24. The opposing positions over the concept of collegiality remained in place throughout 2000. On 2 May 2000, representatives of RPCR and FLNKS met under the chairmanship of the French Secretary of State for Overseas Territories, Jean-Jack Queyranne, for the first meeting of the Committee of Signatories of the Nouméa Accord. While both the RPCR and FLNKS delegations expressed satisfaction at the prompt establishment of new institutions, each restated their differing understanding of the idea of collegial government. As stated in the record of conclusions of the meeting:

> "For the FLNKS, 'collegiality' implied that all the members of the Government should be associated with the process of preparing and making decisions, with consensus-building needing to remain a constant prime goal and majority decision-making only being resorted to in the last instance. For the RPCR, 'collegiality' means that the majority is obliged to inform and

associate with the minority and to seek consensus; where consensus is not possible, any remaining differences of opinion should be resolved by voting."

25. The views of the Government of France on the matter of collegiality were expressed by Mr. Queyranne at the opening session of the Committee of Signatories. After reiterating the remarkable achievements of the parties in implementing the provisions of the Nouméa Accord, he added the following:

> "Collegiality in government, which is the guarantee of the effective functioning of New Caledonia's executive branch, must bring institutional balance, political stability and success to the Nouméa process by combining the partnership of Caledonians in their diversity and a concern to allow decisions to be taken. Even if it does not preclude it, it differs from the logic of the majority, which, in a land that has been as divided as yours, has led — and would inevitably lead — to the creation of a gulf between two camps, two communities and two political formations; nor should it lead to a wait-and-see attitude that would immobilize the Government. In a Government like yours, in which each member is charged, under the leadership of the President, with guiding and supervising a sector, rather than directing it, collegiality means, first of all, transparency and sharing of information, on a daily basis and in a timely manner, among all the members of the Government; secondly, it means systematic consensus-building ahead of time, which will ensure the soundness of the decisions taken; majority voting, if it proves necessary, must be used only as a last resort to avoid a stalemate, bearing in mind that the entire Government will be bound by the outcome. In brief, it is not a question of dominating but of first convincing, then assuming responsibility collectively."

26. Christian Paul, who succeeded Mr. Queyranne as Secretary of State for Overseas Territories in August 2000, made a similar appeal for the parties to uphold the spirit of the Nouméa Accord when he visited New Caledonia in October 2000 for the inauguration of the eighth Pacific Arts Festival.

27. According to press reports, the new Government, elected in April 2001, under President Pierre Frogier and Vice-President Déwé Gorodey, is seen as moving towards a more desirable collegial spirit. The day after the elections in Congress, the President was quoted as saying, "We have decided to together set New Caledonia on a new course and to work in a new spirit". For her part, the Vice-President stated that the members of FLNKS had "repeatedly demanded the Vice-Presidency in order to ensure that the letter and the spirit of the Nouméa Accord are respected". FLNKS leader Roch Wamytan also expressed satisfaction: "the discussions have enabled us to regain our rightful place within the Government, with the Rassemblement occupying the Presidency and FLNKS the Vice-Presidency".[7]

28. Other important issues discussed by the parties at the May 2000 meeting of the Committee of Signatories was the need to agree on general policy and the application of the provisions of the Nouméa Accord and the organic law of 1999 on the following: Kanak identity and culture (land tenure, development of customary land, customary law and a special agreement between the State and New Caledonia on cultural development); training policies for secondary and tertiary students and establishment of the new "cadres avenir" (managers for the future) project; external relations (see para. 29); and the drafting of a special agreement on the status of people from Wallis and Futuna who live in New Caledonia.

29. With respect to New Caledonia's international relations, the first Meeting of the Committee of Signatories agreed on the importance of developing trade and other relations within the Pacific region and decided to establish a steering group on external relations to coordinate action by the State, New Caledonia and the provinces. Another concern expressed was the need to establish better links within the European Union in order to capitalize on available aid programmes and the trade regime for which New Caledonia qualifies as an overseas territory. It was agreed that, in the long term, a specially trained diplomat would be required to represent New Caledonia in Brussels. In keeping with the above, during 2000, New Caledonia continued to develop its contacts with its Pacific neighbours. Having been admitted as an official observer to the Pacific Islands Forum in 1999, the Territory was represented by Vice-President Léopold Jorédié at the Forum's annual meeting in Kiribati, in October 2000. The Vice-President also represented New Caledonia at the Sixth

Pacific Islands Conference of Leaders, held in Hawaii in January 2001, under the theme "Pacific peoples' futures in an era of globalization: how do we care for and share with others?"[8] Representatives of the Territory have attended numerous technical meetings convened by the Pacific Islands Forum, the Pacific Community and the United Nations system. They took part in negotiations on fisheries held in Hawaii and, inter alia, in bilateral talks with Japan and Papua New Guinea. During 2000, there were high-level diplomatic visits to the Territory, such as those by the Minister for Foreign Affairs of Vanuatu in May to discuss trade[9] and by the Ministers for Foreign Affairs and Trade, and Conservation of New Zealand in December. According to press reports, the New Zealand delegation included seven parliamentarians, 14 representatives of non-governmental organizations and academics, and it sought to study New Caledonia's progress towards autonomy and discuss regional security.[10] A number of high-level international contacts also took place during the eighth Festival of Pacific Arts, held in New Caledonia from 23 October to 3 November 2000. The Festival brought together more than 2,200 artists and officials from 24 Pacific nations who attended events held in all three provinces to celebrate the cultures and traditions of the region.

30. According to the Government of France, the above-mentioned developments reveal both active international support for the Nouméa process and a better insertion of New Caledonia in its regional environment. In this respect, a "foreign relations" group regularly brings together interested parties for meetings with the President and the High Commissioner. In addition, New Caledonian professionals are receiving diplomatic training.

III. Economic data and developments

A. General

31. The 1996 census data set the active population of New Caledonia at 80,589 people, with an unemployment rate of 18.6 per cent for the entire Territory. Unemployment figures are lower, however, in the South, where the majority of the employment opportunities arise, and higher in the North and the Islands. According to information provided by the Government of France, in 1996, New Caledonia had a gross domestic product (GDP) valued at 335 million Comptoirs Français du Pacifique francs (CFPF), equivalent to US$ 3.56 million, or 1.7 million CFPF (US$ 18,085) per capita. Thus, the Territory ranked between New Zealand and Australia in terms of "created wealth" per person and at the average level by European standards. Nonetheless, in spite of its economic assets, New Caledonia also suffers from structural imbalances. Therefore, in the context of the Matignon Accords of 1988 (see A/AC.109/1000, paras. 9-14) and the Nouméa Accord, much of the efforts of the Government of France and New Caledonian institutions in the past decade have been aimed at redressing the balance in terms of infrastructure, social services and employment possibilities among the three provinces. According to the Government of France, development contracts agreed on for 2000-2004 include a 25 per cent increase in credits as compared with those for 1993-1997. The 2.3 billion French francs (FF) provided by the State for development of the Territory for the 2000-2004 period is allocated as follows: FF 738 million for the North Province, FF 442 million for the South Province, FF 348 million for the Loyalty Islands, FF 313 million for the greater Nouméa area and FF 259 million for Territory-wide projects. In addition, the local government units ("communes") and inter-community projects will receive FF 125 million and FF 103 million, respectively. Also in line with the principles of the Nouméa Accord, the North Province and Loyalty Islands receive 70 per cent of State credit, while the South Province receives the remaining 30 per cent.

32. According to figures released by the Institut territorial de la statistique et des études économiques (ITSEE), most sectors of the New Caledonian economy performed strongly in 2000. Imports were 5.3 per cent higher than in 1999. They have been moving upward for the last five consecutive years, reflecting strong investments in infrastructure and resource development projects, but the figures for 2000 were particularly affected by higher oil prices and the depreciation of the CFP franc against the United States dollar. At the same time, exports rose by 44.2 per cent, driven by a record performance in the nickel industry, which earned nearly CFPF 70 billion in 2000. Tourism and seafood exports also performed strongly (see paras. 38-39). The trade deficit in 2000 was CFPF 43.4 billion, down from CFPF 60.5 billion in 1999.[11]

B. Mineral resources

33. New Caledonia's economy is dominated by the nickel industry. The Territory has more than 20 per cent of the world's known nickel resources, is responsible for 6 per cent of the world's nickel output and employs some 3,500 people in firms of varying size. In 1998, nickel sales were negatively affected by the economic crisis in Asia, which provoked a 33-per-cent decline in the world price of nickel. During 1999, the increased demand for nickel from stainless steel makers and the steady improvement of nickel prices on international markets gave new confidence to the local economy. Although this is a highly dynamic sector, which makes up 90 to 95 per cent of New Caledonia's exports and which, in turn, generates numerous related economic activities, it is fragile in that it is almost entirely dependent on international demand and nickel prices. Thus, emphasis is currently being placed on the development of local metallurgical production (which creates more wealth) rather than on mineral exports. According to the Government of France, there was sustained international demand for New Caledonian mineral products during 2000. A total of 57,463 tons of metallurgical products was produced in 2000, 1.8 per cent more than in 1999, while mineral production in 2000 rose to 7.5 million tons, a 13 per cent increase with respect to 1999.

34. It will be recalled that a precondition for the talks that led to the Nouméa Accord was the transfer of nickel reserves from the French State-owned company, Eramet, to the Kanak-controlled Société minière du Sud-Pacifique (SMSP) (see A/AC.109/2114, para. 8). This transfer permitted SMSP to go ahead with plans for the construction of a smelter in the north of the island in a joint venture with the Canadian company Falconbridge. Under an agreement signed in February 1998, the Poum nickel deposit belonging to SMSP would be exchanged for the richer Koniambo deposit belonging to Eramet's New Caledonian unit, Société Le Nickel (SLN). This deposit would feed the planned new smelter. In January 2000, SMSP/Falconbridge announced that their feasibility study for the new smelter would be completed by the end of 2002, three years ahead of schedule. Initial surveys indicate that the mineral deposits at Koniambo are of good quality and will last at least 25 years. The new smelter, to be situated 270 kilometres north of Nouméa, would produce some 54,000 tons of nickel ore per year. Recent statements issued by Falconbridge estimate that the plant will employ over 2,000 local people, 750 of them directly at the smelter and 1,500 indirectly. Other employees recruited in New Caledonia are currently undergoing training in Canada.[12]

35. Anther plant, to be built shortly by the International Nickel Company (INCO) of Canada, is expected to exploit mineral deposits in Goro, South Province. After monitoring the results of a pilot plant, built in October 1999 to simulate mining conditions on a small scale, INCO confirmed in April 2001 that it would invest some US$ 1.4 billion in a nickel and cobalt mining project. The plant is scheduled to be completed by the end of 2004. Production capacity is expected to reach 54,000 tons of nickel per year and 5,400 tons of cobalt per year, and an estimated 800 direct jobs are to be created in the process.[13]

36. A significant development during 2000 was the conclusion of a long-awaited agreement to allow New Caledonia's three provinces to become shareholders in nickel production. A provision of the Nouméa Accord and a further step in the economic rebalancing process, the agreement was delayed owing to disagreements between RPCR and FLNKS. Its signature on 17 July 2000 was welcomed by French Prime Minister Lionel Jospin, who paid tribute to the "spirit of dialogue" which had made it possible. The agreement established a new company, the Société Territoriale Calédonienne de Participation Industrielle (STCPI) to hold 5.3 per cent of Eramet shares and 30 per cent of shares in Eramet's New Caledonian subsidiary, SLN. STCPI assets were, in turn, distributed equally between the South Province development company, Promosud, which owns half the shares, and a joint venture company of the North Province and Loyalty Islands, called Nordil, which holds the remaining 50 per cent. In November 2000, New Caledonia was shaken by the death, in a helicopter crash, of the President of STCPI, Raphael Pidjot, together with the entire senior management of SMSP and associates from Falconbridge. Mr. Pidjot was considered to be a leading light among Kanak entrepreneurs and a major architect of the nickel-related aspects of the Nouméa Accord.[14]

37. Potentially encouraging for the future economy of New Caledonia was the discovery off its western coast in November 1999 of what is believed to be the world's largest gas deposits, measuring 80,000 square kilometres. The finding was made by the research vessel *L'Atalante* during the course of a study to

evaluate marine and mineral resources in New Caledonia's exclusive economic zone. Initial results indicate that the reserves are much larger than first thought when the field was discovered in May 1998 by a joint French-Australian mission. A further exploration is to be carried out in 2001 by the Institut français de recherche pour l'exploitation de la mer (IFREMER) in cooperation with the Institut français du pétrole and the ELF group. During the period under review no further information has been made available on this matter.

C. Other economic sectors

38. Other sectors that contribute to New Caledonia's GDP are public administration, commerce, services, construction and public works, small and medium industry, agriculture and tourism. While agriculture and fisheries account only for 2 per cent of GDP, they increasingly occupy a central place in New Caledonian society, employ some 30 per cent of the population and make it possible to contain the rural exodus. Rural development projects are aimed at increasing the local market, thereby decreasing the need for imported goods and further enhancing the possibilities of exporting produce such as prawns and tuna. According to figures released by ITSEE, the value of seafood exports in 2000 rose by 10 per cent compared with 1999, and was 50 per cent higher than in 1998. Prawn exports reached 1,253 tons valued at CFPF 1.8 billion, and the value of fresh tuna sold to the Japanese market rose by 50 per cent to CFPF 500 million.[15]

39. Tourism is regarded as another promising sector. According to official statistics, a record 109,587 visitors came to New Caledonia by air during 2000, a 12.1 per cent increase over 1999.[16] New Caledonia's major tourism sources are Japan, metropolitan France, Australia and New Zealand. Arrivals by yacht also increased significantly during 2000 owing to the America's Cup yacht race in New Zealand, the Olympic Games in Sydney, Australia, and the Festival of Pacific Arts in Nouméa. There is an ample supply of hotel rooms and plans are under way for the construction of new hotels and ecotourism ventures. However, the improvement of airline services remains an important priority for the Territory if tourism and other economic activities are to be developed further. In the light of the departure of Corsair and Continental-Micronesia lines in recent years and the possible withdrawal of Air France in 2002, the Government of New Caledonia announced its intention in October 2000 to acquire three Airbus aeroplanes for its flag carrier, Air Calédonie International (AirCalin). Two of the aeroplanes would be devoted to the Nouméa-Osaka and Nouméa-Tokyo routes, and a third to regional links to Australia, Wallis and Futuna, New Zealand and French Polynesia. In May 2001, the decision by the French airline AOM-Air Liberté to cease operations, including the recently established Nouméa-Los Angeles-Paris route, dashed hopes for increased tourism from the United States of America.[17] In the light of AOM-Air Liberté's decision, the French Ministry of Transport announced the Government's intention to urge airlines to reinforce their services to the overseas territories.[18] The New Caledonian authorities are awaiting a final decision from the French State on tax exemptions for the purchase of the new Airbus aeroplanes.

D. Labour

40. While during 1998 and 1999 there were a considerable number of labour disputes in New Caledonia, according to the administering Power, the number of labour disputes and their effects decreased noticeably during the second half of 2000. Before that, there were three disputes of note, namely, the January 2000 strike by the Union Syndicale des Travailleurs Kanak et Exploités (USTKE) against the management of the domestic airline Air Calédonie; the February 2000 strike by the Union syndicale des ouvriers et employés de Nouvelle-Calédonie (USOENC-Mines), which paralysed activities at the Donimabo nickel smelter for two months; and, finally, the labour dispute in April and May 2000 between USTKE and the management of the Numbo Cement Works. On 20 October 2000, 11 out of 15 unions and employer groups signed a "social pact", setting out a new framework for labour relations. The 20-page agreement was the result of lengthy negotiations led by two members of the Government (members of RPCR and FLNKS) and two presidents of congressional commissions (members of FCCI and FLNKS). According to press reports, the agreement aims to end the frequent degeneration of labour disputes into strikes and lockouts. It also addresses the issue of minimum wages and improved working conditions.[19] Among the dissenting unions which did not sign the pact was the Union Syndicale des Travailleurs Kanak

et Exploités (USTKE), reportedly owing to the inclusion of provisions related to mandatory mediation.

IV. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

41. A representative of the Government of New Caledonia and a representative of the FLNKS participated in the Pacific Regional Seminar organized by the Special Committee to review the political, economic and social conditions in the small island Non-Self-Governing Territories and held at Majuro, Marshall Islands, from 16 to 18 May 2000.[20]

42. The Special Committee considered the question of New Caledonia at its 7th and 11th meetings, on 10 and 12 July 2000. At its 7th meeting, the Chairman drew attention to the working paper prepared by the Secretariat (A/AC.109/2000/4). At the same meeting, in accordance with a decision taken by the Committee, a statement was made by Paul Néaoutyne, on behalf of the FLNKS (see A/AC.109/2000/SR.7).

43. Mr. Néaoutyne stated that the Nouméa Accord had ushered in an important phase, which had been reflected in the development of the relations among the United Nations, France and New Caledonia. The Nouméa Accord stipulated that the process of emancipation would take place with the full knowledge of the United Nations, and all parties to the Accord were obliged to submit relevant information in a transparent form.

44. France's national representative organs had approved almost unanimously the gradual process of decolonization provided for in the Nouméa Accord and had incorporated it in the Constitution, stipulating the following elements: restoration of the Kanak identity; establishment of a citizenship of New Caledonia; gradual and phased transfer of sovereign powers, except in the areas of justice, defence, public order, finance, foreign relations and establishment of citizenship on the basis of national origin; transfer by France to the jurisdiction of New Caledonia of development mechanisms; and establishment of a legislature and a Government of New Caledonia.

45. In the referendum held on 8 November 1998, 72 per cent of those entitled to vote had approved that process. The reflection in the Nouméa Accord of the sui generis principle in the context of French legislation had, in fact, been the result of the persistent political negotiations conducted by FLNKS. Following the restoration of their identity and dignity, the Kanak people could consent to have a common future with the other cultural groups with which it was to share a common citizenship. For that purpose, New Caledonia had rich natural resources, particularly nickel, and the prospects for its industrial exploitation were currently being studied in the North and South Provinces.

46. Mr. Néaoutyne stated that, over the preceding year, the following results had been achieved in implementing the Accord: a Customary Senate had been established; the organs of power were being elected on an equitable basis; a system of social services was operational; prospects for the implementation of projects in the economic field were being studied; and the citizens, having approved the Accord, were seeking various ways of realizing the goals set forth therein. FLNKS wished to call on the United Nations to be vigilant and to warn its partners under the Accord of the danger that the Accord might collapse as a result of such factors as the failure to resolve the issue of the composition of the electorate; non-compliance with the principle of collegiality in the work of the Government of New Caledonia; delays in the implementation of the agreements on development issues to which the State and local groups were parties; delays in the transfer of the Eramet/SLN group to the partial jurisdiction of the provinces of New Caledonia; attempts to undermine the Bercy Agreement setting out the process for the establishment in the North Province of a metallurgical plant for the treatment of nickel; and non-compliance with a range of provisions of the Nouméa Accord and the organic law. FLNKS considered it crucial that the United Nations should continue to follow closely the developments in New Caledonia until it achieved full emancipation.

47. Also at the 7th meeting of the Special Committee, in accordance with a decision taken by the Committee, a statement was made by Jean Lèques, President of New Caledonia.

48. Mr. Lèques stated that the road to the 1998 Nouméa Accord had not been smooth. In the wake of the strife that had rent the archipelago, the Matignon Accords had been signed in 1988. The subsequent period had been devoted to correcting imbalances and assigning responsibilities. There had been noteworthy efforts in the field of economic development, largely thanks to substantial financial support from France. The Accords had provided for the holding of a referendum on self-determination in 1998. However, since the majority of the population would have favoured remaining within the French Republic, such a referendum would have led in reality to renewed strife and would have jeopardized the successes achieved. Therefore, since 1991, Jacques Lafleur, the deputy representing New Caledonia in the French Parliament, had advocated a consensus solution that would be accepted by all sections of the population.

49. Mr. Lèques added that the Nouméa Accord had been a consensus solution that took fully into account New Caledonia's specific features. It provided for a considerable broadening of New Caledonia's responsibilities, the transfer of executive power to a collegial local government and the establishment of a Customary Senate. There was a strong focus in the Accord on issues of Kanak identity, but at the same time it was firmly oriented towards the future, towards the forging of a common destiny accepted by all. France would accompany New Caledonia on that road, which led first through economic and social development for the benefit of all. In its one year of existence, the Government of New Caledonia had held 55 meetings and considered no fewer than 1,250 issues, and almost all decisions had been adopted unanimously. The decisions taken had concerned, inter alia, restructuring of customs duties, conclusion of fishing agreements, establishment of an air service, introduction of a common system of social coverage, enhancement of road safety, development of a blueprint for employer-labour relations and preparations for a festival of Pacific arts. Regarding legal aspects, the Accord allowed the Congress of New Caledonia to pass resolutions of a legislative character. That had necessitated the amending of the French Constitution, and France had done so without hesitation. That decision, which broke with traditional models and acknowledged New Caledonia's specific features, would ensure political and social stability for the next 20 years, although daily effort would be required to overcome conflicts and difficulties. Recently, a committee consisting of the three sides that had signed the Nouméa Accord had met for the first time. The sides had expressed unanimous support for what had been achieved and had begun to plan the next stage.

50. The United Nations mission that had visited New Caledonia in August 1999 had expressed keen interest in the innovative system functioning there.

51. Foreigners often perceived the population of New Caledonia as consisting of only two communities. In fact, it was a multi-ethnic society (Melanesians, Europeans, Wallis Islanders, Indonesians, Vietnamese, Polynesians and others) in which there was room for everyone.

52. Mr. Lèques stated that, in future, New Caledonia would play its part, alongside France, in foreign relations at the international and regional levels. In an era of globalization, the Nouméa Accord gave New Caledonia the opportunity to act as a bridge between Oceania and Europe. On 6 October 1999, New Caledonia had been granted observer status in the South Pacific Forum (now the Pacific Islands Forum), thus paving the way for increased cooperation among the countries of the region. In addition, New Caledonia was linked to the European Union through an association provision. In 20 years' time, New Caledonians were to undertake an act of self-determination, deciding on the future of the Territory. He was counting on the support of the French State, in which the vast majority of the population of New Caledonia had decided to remain, and of the United Nations and the international community as New Caledonia advanced on the road mapped out in the Nouméa Accord. The periods of strife on the archipelago must never return.

53. At the 11th meeting of the Special Committee, the representative of Papua New Guinea introduced draft resolution A/AC.109/2000/L.7 and revised the draft by adding the words "including preliminary studies relating to hydrocarbons" at the end of paragraph 12 (see A/AC.109/2000/SR.11). At the same meeting, the Special Committee adopted the draft resolution without a vote (A/AC.109/2000/25); afterwards statements were made by the representatives of the Syrian Arab Republic, Chile and Antigua and Barbuda.

B. Special Political and Decolonization Committee (Fourth Committee)

54. At its 7th meeting, on 29 September 2000, the Special Political and Decolonization Committee (Fourth Committee) heard a statement by Roch Wamytan, President of FLNKS.

55. Mr. Wamytan stated that 1998 had been a turning point in the political history of New Caledonia, with the signing on 5 May of the Nouméa Accord between FLNKS, RPCR and the Government of France, under which they had agreed to seek a negotiated solution for the creation of a new institutional framework. Nearly 72 per cent of the population had voted on the referendum on the Nouméa Accord, held on 8 November 1998, thereby demonstrating a readiness to determine its future independently. Since 1986, when New Caledonia had been reinscribed in the list of Non-Self-Governing Territories, the FLNKS, the legitimate spokesman for the aspirations of the Kanaks, the Territory's indigenous population, had been speaking before the Committee to defend the legitimate rights of the Kanaks, which had been recognized by the United Nations. That was why its participation in the Committee's important work was essential. New Caledonia was rich in natural resources, including nickel and cobalt. The people of the Territory must be given the opportunity for constructive involvement in economic activity, including mineral mining. One possible step in that direction was the creation of the Société Territoriale Calédonienne de Participation Industrielle.

56. Serious problems arose, however, in the implementation of the Nouméa Accord. Although the goals of the Accord had been clearly formulated, namely the creation of new political structures and the gradual preparation of the Territory for full sovereignty, RPCR had broken with the principle of collegiality and the agreement on power-sharing. That aroused anxiety in the population of the Territory and its representatives, who considered that the Nouméa Accord gave the parties peaceful means of solving problems and of avoiding clashes between representatives of various ethnic communities. Despite that difficult situation, FLNKS had not lost hope of finding a solution to the problems hindering the fulfilment of the Accord and the restoration of sovereignty to the Territory's population, the Kanaks. The Government of France, for its part, was not only an intermediary but also a major participant in the Nouméa Accord and should work for the renewal of dialogue between FLNKS and RPCR and the furthering of the process begun with the signing of the Nouméa Accord.

57. In conclusion, Mr. Wamytan confirmed the readiness of FLNKS to comply with the Accord and called on the United Nations to focus its attention on the liberation of New Caledonia from colonial dependence with a view to the realization by the people of that Territory of their inalienable right to self-determination (see A/C.4/55/SR.7, paras. 39-41).

58. At the same meeting, the representative of Papua New Guinea recalled that he had submitted the report of the visiting mission to New Caledonia (A/54/921, annex) and drew attention to paragraph 33 thereof, which referred, inter alia, to the fulfilment of the constitutional process in accordance with the Nouméa Accord. He asked Mr. Wamytan about the likelihood that the French National Assembly and Senate would ratify the relevant amendments to the French Constitution.

59. Mr. Wamytan stated that the only point which remained was for the French National Congress (a joint session of the National Assembly and the Senate) to pass a draft bill for a Constitutional amendment which would limit the electorate authorized to vote in New Caledonia's provincial elections of 2004, 2009 and 2014. He added that, according to the Secretary of State for the Overseas Territories, it was possible for the joint session to be held during the first quarter of 2001.

60. The representative of France confirmed that the amendments to the criteria for formation of the electorate had been adopted by the French National Assembly and Senate and were now awaiting ratification at a joint session of the two bodies.

61. At its 8th meeting on 3 October 2000, the Fourth Committee adopted the draft resolution on the question of New Caledonia[21] without a vote (see A/C.4/55/SR.8, para. 40).

C. General Assembly

62. At the 83rd plenary meeting of the General Assembly, on 8 December 2000, the Rapporteur of the Special Committee made reference to New Caledonia.

He stated that the Special Committee welcomed certain progress, including steps leading to closer association of the Territory within regional and international organizations and urged all parties involved to maintain their dialogue in a spirit of harmony and in the framework of the Matignon and Nouméa Accords, moving towards an act of self-determination which would safeguard the rights of all New Caledonians (see A/55/PV.83).

63. At the same meeting, the representative of Papua New Guinea, in introducing draft resolution A/55/L.58 on the implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, reaffirmed the value of United Nations visiting missions. In that connection, he added that, in his personal capacity as representative of Papua New Guinea, he had been privileged to visit two Non-Self-Governing Territories, namely, New Caledonia and Guam. His visit to New Caledonia, as head of a visiting mission comprising countries of the Pacific region, at the invitation of the administering Power, had proved to be invaluable in every respect, since it gave the members of the mission an opportunity to learn first-hand about the Territory, its peoples and its political and socio-economic realities and gave the members insight into the challenges the Territory confronts in its quest for self-determination. He noted that the report of this particular mission was contained in the annex to document A/54/921.

64. At the same meeting, on 8 December 2000, the General Assembly adopted without a vote resolution 55/142 on the question of New Caledonia. In that resolution, the General Assembly, inter alia, urged all the parties involved in the interest of all the people of New Caledonia, to maintain, in the framework of the Nouméa Accord their dialogue in a spirit of harmony, and to continue promoting a framework for the peaceful progress of the Territory towards an act of self-determination in which all options would be open. The Assembly welcomed the fact that the administering Power had invited to the Territory, at the time the new institutions were established, a mission that comprised representatives of countries of the Pacific region. The Assembly noted the positive initiatives aimed at protecting the natural environment of New Caledonia, notably the "Zonéco" operation designed to map and evaluate marine resources within the economic zone, including preliminary studies related to hydrocarbons. The Assembly welcomed measures taken to diversify the New Caledonian economy in all fields, as well as the importance attached to greater progress in housing, employment, training, education and health care. It also welcomed the accession by New Caledonia to the status of observer in the South Pacific Forum. The Assembly decided to keep the process unfolding in New Caledonia under continuous review.

Notes

[1] The information contained in this paper has been derived from information transmitted to the Secretariat by the Government of France on 23 April 2001 and from published sources.

[2] *Le Monde*, 11 May 1999.

[3] Economic Intelligence Unit, New Caledonia Country Report, September 2000.

[4] Agence France Presse, 20 March 2001.

[5] *Le Monde*, 21 March 2001, Oceania Flash, 21 March 2001.

[6] Oceania Flash, 8 April 2001.

[7] Les Nouvelles Caledoniennes, 6 April 2001.

[8] Pacific Islands Report, 30-31 January 2001.

[9] Oceania Flash/SPC, 16 May 2000.

[10] Agence France Presse, 4 December 2000 and Oceania Flash, 5 December 2000.

[11] Economist Intelligence Unit, Country Report, 7 March 2001.

[12] Les Nouvelles Caledoniennes/Oceania Flash, 9 May 2001.

[13] Ibid.

[14] *Le Monde*, 30 November 2000.

[15] Economist Intelligence Unit, Country Report, 7 March 2001.

[16] Oceania Flash/SPC, 5 April 2001.

[17] Pacific Magazine, PINA Nius Online, 4 May 2001.

[18] *Le Monde*, 4 May 2001.

[19] Agence France Presse, 20 October 2000.

[20] See A/55/23, part I (to be issued as *Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 23* (A/55/23)), chap. II, annex.

[21] Ibid., part III, chap. XIII, sect. D.

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Cayman Islands

Working paper prepared by the Secretariat

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I. General

1. The Territory of the Cayman Islands[1] is located some 180 miles west of Jamaica and about the same distance south of Cuba. It comprises three islands: Grand Cayman (76 square miles), Cayman Brac — some 90 miles to the north-east — (15 square miles), and the adjacent and largely undeveloped Little Cayman (11 square miles). In 1997, the population was estimated at 36,600, compared with 25,355 in 1989, representing an average annual increase of about 5 per cent.

2. The results of the national census conducted in October 1999 indicated that the population of the Territory was 40,000. However, according to press reports, this figure was considered to be an undercounting as unofficial estimates placed the population figure at 60,000 to 63,000.[2]

3. Currently, native-born Caymanians comprise about 58 per cent of the population, an estimated 25 per cent are of African descent, 20 per cent are of European descent and the remainder are mixed. Overall, the cosmopolitan nature of the population is well illustrated by the fact that some 120 different countries of birth outside the Cayman Islands were recorded in the census of 1989. Approximately 95 per cent of the population live on Grand Cayman, which is the site of the capital city of George Town.

II. Constitutional and political developments

4. According to information provided by the administering Power, the present Constitution came into effect on 22 August 1972, and provides for the Government of the Cayman Islands as a colony under the sovereignty of the United Kingdom of Great Britain and Northern Ireland. Since then, a number of interim amendments have been introduced. They included the adoption of a ministerial system of government and the addition of a fifth elected member to the Executive Council. A motion was passed by the islands' legislature in 1990 to review the Constitution. A draft revised constitution was produced in 1992 but never promulgated.

5. Under the present Constitution, the Governor, who is appointed by the British monarch, is responsible for external affairs, defence, internal security and public service. The Governor is the Chairman of the Executive Council, which comprises three members appointed by the Governor and five members elected by the Legislative Assembly. Constitutionally, the Executive Council is responsible for the administration of government. The Legislative Assembly comprises 3 official members designated in the Constitution and 15 members elected by universal adult suffrage for a period of four years. Since 1991, a Speaker is elected to preside over the Assembly.

6. The question whether the Cayman Islands should change from its current system of government headed by a governor to one headed by a chief minister was brought up by executive and legislative officials in meetings with a fact-finding mission of British parliamentarians that visited the Territory in August 2000. These and other concerns were raised in connection with the 1999 White Paper regarding the Territories administered by the United Kingdom. The Head of the British parliamentary delegation emphasized that those were "matters for the Cayman Government and those who elect them to decide".[3]

7. The judicial system is based on British common law, certain British statutes and local statute law. The administering Power states that the independence of the judiciary is an integral component of the economic, social and political stability in the Cayman Islands. There are three levels of courts in the Cayman Islands: the Summary Court, the Grand Court and the Cayman Islands Court of Appeal. Appeals from the Summary Court are heard by the Grand Court and appeals against Grand Court decisions go before the Cayman Islands Court of Appeal. The final right of appeal from a Grand Court decision is to the Privy Council in London, which does not deliver a decision, but advises the Secretary of State about the merits or otherwise of individual appeals. Unlike lawyers in many other British Territories, lawyers in the Cayman Islands may both interview clients and appear on their behalf before the Grand Court (attorneys practice as both solicitor and barrister).

8. Elections in the past have been contested between independents and loose alliances known as "teams". Politics have been run on a basis of consensus. The party system is of recent development.

9. In 1991, the Progressive Democratic Party (PDP) was formed, followed by the National Team one year later. In February 1995, an independent member of the

Legislative Assembly, Gilbert McLean, founded Team Cayman in opposition to the ruling National Team. The National Team retained its majority in the Legislative Assembly in the 1996 general election but its representation was reduced from 11 seats to 9.[4]

A. Elections

10. The general elections held on 8 November 2000 ended the eight-year rule of the National Team. A record number of 57 candidates running for office campaigned independently rather than jointly, as had been the case in the preceding six elections since 1976. The turnout of voters was almost 83 per cent. Six new members were elected to the 15-member Legislative Assembly.

11. In March 1999, a proposal entitled "Partnership for progress and prosperity: Britain and the Overseas Territories" was presented by the Parliament of the administering Power, the United Kingdom, as a White Paper. The objective of this proposal was to modernize the relationship between the administering Power and its Overseas Territories.[5] The main recommendations of the White Paper reiterated by the administering Power, are outlined in chapter VI, "Future political status of the Territory: position of the administering power", paragraphs 90-92.

12. Issues related to the White Paper became the subject of discussion in the Territory in connection with the enactment of a law on homosexuality by the United Kingdom and, on a broader scale, in connection with the forthcoming review of the Constitution.

13. The legalization of homosexuality by the United Kingdom Order of Council in the Cayman Islands encountered strong opposition, even if the Cayman Islands recognized that the requirement to replace the interim laws related to homosexuality was dictated by the requirement that the United Kingdom adhere to the European Convention on human rights.

14. During the last electoral campaign, several candidates called for a review of the White Paper and for an open discussion of its provisions.

B. Constitutional review

15. In February 2001, a team from the United Kingdom Foreign and Commonwealth Office visited the Territory to hold discussions with the Government and the private sector on the "partnership for progress and prosperity" (White Paper) and the forthcoming Constitutional review.

16. In March 2001, the Governor announced that the Constitutional review would be carried out within a nine-month period following extensive public consultation. A Constitutional Review Commission, consisting of three members, would be established. According to the Governor, the review would define a renewed and modernized partnership between the Cayman Islands and the United Kingdom and "will be based on recognition of mutual responsibilities and obligations".

17. In order to assist the process of the Constitutional review, an 18-point constitutional modernization checklist has been presented to the public. It gives an indication of the standards which the Territory should seek to achieve, the obligations that it should strive to meet, and the expectations of the Government of the United Kingdom in key areas of modernization.

18. The constitutional review was widely discussed in the Territory's press. Attention was drawn to the importance for all Caymanians to participate in the discussion of the proposed constitutional changes. In that connection, it was mentioned that the existing Referendum Law made provision for issues of national importance to be put to the people. A number of publications called upon the Territory's authority to undertake a full and sustained education of the public on what the current Constitution offered, what improvements were proposed in 1992 and set aside, and what constitutional modernization would entail.

19. The press pointed out that, in the past, the notion of "constitutional modernization" had been equated with the question of independence. Numerous publications underlined that the public should be educated and should clearly understand the different implications of the forthcoming constitutional review, and in particular of different forms of self-government. An editorial in the *Cayman Net News* stated: "During last November's election there was intense debate about self-government as opposed to full internal self-government. It should be made clear that the former will still leave certain controls with the British Government, while the latter must establish a date for independence, within six months of its declaration".[6]

20. According to press reports, there is a general agreement among the population that an update of the Constitution is needed to ensure transparency and accountability of the government and to empower the people for more active participation in governance.[7]

C. Citizenship

21. The issue of United Kingdom citizenship was also raised during the visit to the Territory of the delegation from the United Kingdom Foreign and Commonwealth Office in February 2001. The delegation explained that the immigration and naturalization practices in all the British Territories, including Cayman Islands, had been examined for the preceding 18 months, since the release of the White Paper. The draft instructions to amend the British Nationality Act in order to offer British citizenship to qualified residents of the Overseas Territories had been prepared. The bill had the support of both parties in the United Kingdom and was expected to be tabled at the 2001/2002 session of Parliament. The delegation assured the representatives of the Territory that the citizenship provisions would not be reciprocal for citizens of the United Kingdom or of European Union countries.

22. On the question of the Cayman Islands immigration policy, the delegation stressed that it was a matter for the Government of the Territory itself to determine. At the same time, the delegates indicated that the Foreign and Commonwealth Office had received many complaints about immigration practices in the Territory, specifically from long-term residents and people of Caymanian descent. Under the local immigration laws, long-term residence in the Cayman Islands does not provide for security of tenure. There are hundreds of residents who have lived in the Territory for more than 10 years and who do not have any prospective of such security. There are also cases of children who were born in the Territory and are considered to be "stateless" because neither of their parents has Caymanian roots.

III. Economic conditions

A. General

23. The Cayman Islands has one of the highest standards of living in the Caribbean, with a per capita gross domestic product (GDP) of US$ 30,120 in 1998. The economy is based on tourism and on the Cayman Islands' status since 1966 as an international offshore finance centre. The principal sources of government revenue are import duties, company and bank and trust licence fees and stamp duties. There is no income tax, company tax or excise duty. Although imports outstrip exports by about 100:1, the visible trade gap is more than offset by invisible earnings from the tourism and financial services sectors.

24. In February 2001, the Government requested that the Legislative Assembly approve an amount of $18.78 million in advance of the 2001 budget to continue its operations. This was in addition to the $69.5 million advanced in November 2000. Of the newly approved amount, $7.83 million will be used for cost-of-living adjustment payments to employees; $6.01 million goes to capital development expenditures; $3.46 million is an additional first-quarter subsidy to Cayman Airways on top of the $1.5 million paid in January.

25. The Government that came into office after the November 2000 elections has promised to operate with more transparency. At the beginning of 2001, there was an extensive discussion in the Territory's press of the general state of the economy. Some analysts stated that there was a noticeable decline in business activities in the key sectors. Considerable overdue payments to large and small retailers by individuals and institutions have been reported, which slows down cash flows and stagnates business. At the end of 2000, the Government was also reported to be late in settling its bill of over $6 million with businesses.

B. Agriculture, livestock and fisheries

26. Agricultural activities, limited by infertile soil, low rainfall and high labour costs, have nearly doubled over the past five/six years, with 10 large farms totalling over 100 acres now in service. Agricultural products include bananas, tomatoes, lettuce, honey, mangoes, citrus fruits, various vegetables and coconuts. Livestock rearing consists of beef cattle, poultry and pigs. Responsibility for regulating and

developing the agriculture sector rests with the Cayman Islands Department of Agriculture. The Department provides advisory and technical services in crop and livestock husbandry, carries out extensive activities, conducts and monitors the practice of veterinary medicine and sells agricultural equipment and supplies. The Department also participates on the board of the Cayman Islands Farmers' Cooperative Society Limited, assisting it with strategic and operational matters.

C. Tourism

27. The tourism sector dominates the Caymanian economy, accounting for about 70 per cent of the gross domestic product and 75 per cent of foreign currency earnings. The Government's Department of Tourism is charged with supporting the local industry and planning its development. The department markets the island overseas through publicity campaigns and the maintenance of offices in several foreign countries. It also undertakes training programmes for the industry, and carries out licensing and regulatory functions. The Department of Tourism has continued its efforts to diversify and to attract new markets, launching aggressive marketing campaigns in the United Kingdom and the United States of America and opening an office for South America based in Argentina in October 1998.

28. A sustained growth trend in air travel and the cruise industry reflects the popularity of the Cayman Islands as a holiday destination. The resorts maintain an up-market image and offer luxury accommodation. Hotel occupancy is high, especially along Grand Cayman's Seven-Mile Beach. The number of stopover visitors has continued to climb throughout the 1990s, reaching 404,205 stopover visitors in 1998. United States nationals account for more than 70 per cent of total visitors, but the number of Caribbean and Canadian visitors is increasing. Repeat visitors represent 40 per cent of arrivals.[8]

29. The new Government has taken steps to streamline and improve the tourist sector. In January 2001, the Minister of Tourism held a number of meetings with the representatives of the Florida Caribbean Cruise Association, which represents the world's largest cruise companies, including Carnival, Princess and Royal Caribbean. The Minister also discussed with the members of the Cayman Islands Chamber of Commerce ways to improve the services offered by local businesses to cruise ships. The three main areas of concern identified during these meetings were the ban on Sunday and holiday visits by cruise ships, poor tender facilities and the need to upgrade the Spotts landing. The Florida Caribbean Cruise Association was also concerned about the absence of a long-term agreement with the Government of the Cayman Islands. In January 2001, the Minister of Tourism announced his intention to lift the ban on cruise ships visits on Sundays. He also stated that he intended to work together with the business community towards higher standards in the Territory's tourism sector.[9]

30. According to the Director of Tourism, total international tourist arrivals in the Territory in the year 2000 rose by 0.5 per cent, to 1,437,477.[10] With respect to air arrivals, the Minister of Tourism stated, in April 2001, that the figures issued since 1994 had been inaccurate. Owing to concerns over a certain inconsistency between the numbers reported and the corresponding level of economic activity, the Government had requested a comprehensive review of the matter. The review revealed that arrivals had declined annually from 1998 to 2000, rather than having increased, as the reports had indicated. The miscalculation occurred because of the inclusion of such categories of air passengers as returning residents and persons in transit. The correct number of tourists for 1998 was 342,993, 61,212 fewer than the reported 404,205. For 1999, the correct figure was 322,695, 71,839 fewer than the reported 394,534. In 2000, the correct number of arrivals was 316,029 instead of 406,620, a difference of 90,591. The Minister of Tourism indicated that a considerable effort needed to be made to bring the tourism sector back on track and to help it regain focus and productivity.[11]

31. In March 2001, financing for phase one of the $350 million Ritz-Carlton resort and condominium project was completed after the Royal Bank of Scotland approved a $105 million loan. According to the Minister of Tourism, the project is of critical importance to the future of the Territory's tourist industry. Phase one involves the construction of a 366-room hotel, 71 condominium units and a golf course. Phase two, which would be completed in 2005, will include the construction of 300 villas and 12 larger residences.[12]

D. Financial services

32. The Cayman Islands remains among the top international financial centres, with 48 of the world's top 50 banks holding licences there. In 1999, there were 584 licensed banks and trust companies, 473 captive insurance companies and 1,928 registered mutual funds. The banking sector employs more than a tenth of the labour force and contributes 15.5 per cent of the GDP. The Cayman Islands Stock Exchange began operating in 1997 with the intention of attracting overseas clients. In 1999, 209 issues of securities with a market capital of $20 billion were listed, of which 60 per cent were mutual funds.

33. Overseeing this thriving industry is the Monetary Authority, established in 1997. The Authority is responsible for the supervision of banks and trust companies, and the administration of the Cayman Islands currency. Existing legislation provides the Monetary Authority with the power to take action against registrants or non-registrants. In 1998, the Liabilities Support Law (1997) came into force. The law requires all domestic insurance companies to maintain sufficient assets in the Cayman Islands to match their technical liabilities. In 1998, the Insurance Division performed the first in a series of on-site inspections.

34. The Organisation for Economic Cooperation and Development (OECD) is pressuring offshore centres, including the Cayman Islands, to increase the transparency of their financial system and to support efforts to reduce tax evasion. The Cayman Islands has begun a dialogue with OECD on these matters, and is looking at how best to extend the mutual legal assistance treaty, to which the United Kingdom is a party, to the United States. At present, the treaty does not cover tax crimes. If the mutual assistance treaty were extended, it would allow Cayman Islands courts to work with the United Kingdom and the United States in legal actions against individuals and criminals suspected of tax evasion.[13]

35. In July 2000, OECD published a list of 35 countries and jurisdictions whose financial practices it considered to be conducive to tax evasion and money-laundering. OECD demanded that those practices be mended and threatened to impose sanctions on the individual countries (none of them members of OECD) if they failed to comply. The United Kingdom and its Caribbean Non-Self-Governing Territories solicited an independent review which produced recommendations for each of the Territories.

36. Before the OECD list appeared, the Cayman Islands made an "advance commitment" to OECD which included, in particular, a willingness to enter into discussions about information sharing with other countries. Thus, the Cayman Islands did not appear on the OECD list. However, the Territory was listed among 15 "un-cooperative" countries targeted for possible sanctions by the Financial Action Task Force (FATF). In the case of the Cayman Islands, the major deficiencies of the anti-money-laundering regime pursued by FATF included customer identification, internal reporting and record keeping. At the same time, it was noted that the Territory was a leader in developing anti-money-laundering programmes in the Caribbean.

37. During the period under review, the Government of the Cayman Islands has made considerable efforts to improve its legislation in keeping with the Territory's status as one of the major international financial centres and its sound business reputation. The guidelines that previously existed within a code of practice have become legal requirements. In addition, the following laws were adopted or revised in the year 2000: Monetary Authority Law (2000 revision); Proceeds of Criminal Conduct Law (2000 revision); Money-laundering Regulations 2000; Companies Management Law (2000 revision); and Banks and Trust Companies Law (2000 revision).

38. In February 2001, the Monetary Authority announced new rules requiring all foreign banks licensed in the Territory to have offices and staff in the Cayman Islands and to maintain records or lose their licences. The Cayman Islands stopped issuing licences to so-called "shell banks" in 1992, but 62 such banks were already in existence. The new rule gave them nine months to comply. The other 388 foreign banks licensed in the Territory are subsidiaries of major banks that are supervised in accordance with the regulations of their home jurisdictions and are not affected by the new regulations.[14]

39. In February 2001, the substantial progress made by the Territory was recognized and commended by the FATF Progress Report on Non-Cooperative Countries and Territories. In a letter praising the Territory's efforts, the President of FATF noted, however, that the criteria relating to the existence of anonymous

accounts had still been only partially met. As a result, the Territory, which is host to some 600 banks and trust companies and holds assets worth $600 billion, was not dropped from the list produced by FATF in February 2001.[15]

40. The OECD and FATF actions with respect to low-tax jurisdictions in their quest to eliminate "harmful tax practices" met with a mixed reaction in the financial community.[16] While the need to fight the illegal money-laundering is generally acknowledged by the Governments of the listed jurisdictions, they view the favourable conditions offered to clients by the financial centres as legitimate business competition in the global economy. Moreover, offshore financial centres, including the Cayman Islands, argue that the OECD approach threatens their sovereignty and the right to set their own laws. The fact that OECD threatened sanctions without consultations with the concerned parties is viewed as an additional cause for grievance. Some observers, including certain members of the OECD, describe OECD pressure as discrimination against small countries and an attempt to prohibit capital flow from high-tax nations to low- or no-tax nations.

41. According to reports, the Governments of the targeted countries and Territories have rejected discussing the subject only with OECD, as they would prefer a multilateral forum such as the United Nations.[17] Meetings between OECD and the largest offshore centres, including the Cayman Islands, have not yet achieved any positive results.[18]

E. Transport and communications

Communications

42. The Territory's development as an international business centre has been facilitated by modern and reliable telecommunications and utility services. The multinational company Cable and Wireless holds an exclusive licence for provision of telecommunication through its local Cable and Wireless (Cayman Islands) Ltd.

Airports

43. International air services are provided between Grand Cayman and the United States, Europe, Jamaica, Honduras and Cuba. Major United States and British airlines operate regularly to and from the Caymans. Domestic airline services and charters operate between the sister islands of the Caymans.

Seaports

44. The port of George Town, Grand Cayman, was the main gateway for the 869,441 cruise ship visitors who visited the island during 1998. The Cayman Islands are served by scheduled passenger liners, and a number of locally owned or registered vessels provide cargo services between Miami, Tampa and Jamaica. A proposed $12.2 million expansion of the dock facility and surrounding area will enable the Port Authority to handle the ever-increasing volumes of cargo.

45. Following the general election in November 2000, the Tourism, Environment and Transportation Minister asked the Port Authority to review the George Town port development project. Subsequently, a revised plan was drawn up and approved by the Government. The revised plan reduces the size of the cargo terminal, and expands facilities for cruise ships and pleasure boats.[19]

F. Shipping registry

46. The year 1998 saw a record 225 shipping registrations in the 12-month period. In commercial shipping, tonnage growth set another record of 38 per cent. Yacht registrations continued well in 1998, maintaining the Cayman Islands position as the world's leading offshore registry for "superyachts". The shipping registry comprised 1,200 ships in 1999.

47. In June 2000, the Cayman Islands attended the annual meeting of the Red Ensign Group, consisting of the United Kingdom and the Shipping Registers of several British Non-Self-Governing Territories.

G. Water system, sanitation system and utilities

48. The Public Works Department is responsible for maintaining the public and government infrastructure in the three islands. In recent years, it has either undertaken or managed construction projects ranging from the George Town Health Services complex, to the Owen Roberts Airport expansion programme, to the Harquail bypass and the visitors' centre at Pedro Castle to new school buildings.

49. The Caribbean Utilities Company, a local corporation, is responsible for the generation and distribution of electricity, under government franchise, on Grand Cayman, while the Cayman Brac Power Company provides the service for the sister islands. The government-owned company, Water Authority Cayman, and the private Cayman Water Company provide water and sewage services, which complement residents' private wells and cisterns.[20]

IV. Social conditions

A. General

50. According to the administering Power, the aim and effect of legislation and action by the Government in the social sphere is to create a society in which individual effort is rewarded while a cushion is provided, often with voluntary help, for the less fortunate.

51. The Government provides assistance for the elderly and disabled, children and young people, persons with mental illness and learning disabilities, and families in financial need. Major services include residential and day care, home help for those confined at home, other social services for Cayman's youth and women, and drug prevention and rehabilitation programmes. Children's services carried out by the Department of Social Services include adoptions, foster care and the operation of several children's homes.

52. Numerous voluntary and service groups provide assistance to address many social concerns. Many of them are dedicated to specific causes, such as drug prevention and rehabilitation, cancer and the prevention of cruelty to animals. These groups are supported mainly by donations from the Government, the private sector and individuals, and are generally staffed by volunteers.[21]

53. Following the recommendation of the Ministry for Social Welfare, government monetary assistance to the elderly and disabled increased from $250 to $400 per month from the year 2000. Assistance is paid to Caymanians who are 60 years of age and older and who have little or no income, to the disabled and to the handicapped.[22]

B. Human rights

54. The Territory is subject to several major human rights conventions to which the administering Power has acceded. These include the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the Second Optional Protocol to the International Covenant on Civil and Political Rights (aiming at the abolition of the death penalty).

55. The administering Power identified, through its above-mentioned White Paper, several human rights issues concerning which it would like to see reforms, in particular, homosexuality and capital punishment.

56. At the end of 2000, the Government of the United Kingdom, which has the final say over legal issues concerning its Territories, unilaterally repealed local laws against homosexuality. The action was enforced through an Order in Council and was undertaken in compliance with the international obligations of the United Kingdom as a member of the European Union. This move triggered a wave of opposition in the Territory. The Cayman Ministers Association took an official stand on the issue. In April 2001, a petition containing 2,450 signatures of residents of the Territory was presented to the Governor.[23]

57. The White Paper also notes that the administering Power expects all Overseas Territories to remove capital punishment for treason and piracy from their statute books. The response of the Government of the Cayman Islands is that capital punishment for treason and piracy is derived from English common law and are not crimes for which there have ever been any prosecutions. Thus, the abolition of the death penalty and substitution of life imprisonment for treason and piracy will have no effect in practice.[24]

C. Housing and construction

58. The Housing Development Corporation Law of 1981 provides for the promotion of housing development by extending mortgage loans to residents in the low- to middle-income bracket. The Government guarantees home mortgages for low- to middle-income

housing. Under the Home Mortgage Scheme, local banks provide up to 100 per cent financing on the strength of a 35 per cent government guarantee. Applicants must be Caymanians with incomes lower than US$ 60,000 per year.

59. There is a building code, which includes provisions to meet earthquake and hurricane hazards and other public safety concerns. An electrical code and plumbing policies have been established, including licensing and inspectorate provisions.

D. Land

60. According to the Department of Land and Survey, some 257 million Cayman Islands dollars (CI$) worth of land changed hands in 2000. While this represented an increase of 17.35 per cent over the value of recorded land transactions in 1999, the number of transactions in 2000 actually decreased, as did tax revenues derived from them. There were 1,868 recorded transfers in 2000, a decrease of 18.5 per cent from 1999. The yearly revenue from stamp duties on real estate transactions was CI$ 25.5 million in 2000, a 12 per cent decline against 1999, when CI$ 29.4 million was collected.

61. The real estate market continued to decline in the first quarter of 2001, when the value of land transactions was 28 per cent lower than in the corresponding period in 2000. First quarter figures from Cayman Brac showed a 26 per cent decline in stamp duty revenues against the first quarter of 2000 (Territory-wide figures are not yet available). Some analysts considered that one of the factors contributing to the high cost of housing was the existing zoning requirement that restricts the density of homes per acre. With this regulation in place, the cost of land alone often constitutes 50 per cent of the construction costs. The analysts who are looking for ways to revitalize the real estate market call upon the Government to allow construction on much smaller lots (6 or 8 per acre), so that more money can be spent on construction itself, which is especially meaningful for households in lower to medium-income brackets.

62. Another factor that negatively affects the construction industry is connected to immigration issues and the current system of work permits. It is believed that those who go to the Territory to work for a limited period of time without having any prospects for acquiring permanent residence status are not inclined to make such long-term commitments as buying a home.

E. Labour

63. The Department of Human Resources is charged with administering the Labour Law. The Law governs the terms and conditions of employment in the Territory. In carrying out that function, the Department, inter alia, provides remedies for the resolution of unfair dismissal and other labour-related disputes; outlines procedures for employers to discipline employees who are guilty of misconduct; provides for the health, safety and welfare of employees; and facilitates the employment of Caymanians. In 1997, the Department handled approximately 250 complaints.

64. The Labour Law provides for 12 weeks of mandatory maternity leave in a year, after 12 months of service, of which four weeks will be paid leave. The leave entitlement is on a pro rata basis for workers with less than 12 months of service. The General Orders (which regulate terms and conditions of employment in the civil service) have been amended to provide for 12 weeks of maternity leave to be granted women in the civil service who have completed 12 months of service.

65. A local trade union, the National Alliance of Cayman Islands Employees (NACE) was formally launched in 1999. It is believed to be the third such local organization since the passage of the Trade Union Law in 1942.[25]

66. The employed labour force is estimated at 21,620, with Caymanians comprising about 51 per cent. Data from Immigration Department indicate that there are some 14,000 work permit holders. The workforce includes nationals of 78 countries, with the greatest portion coming from Jamaica, the United States, Canada and the United Kingdom.

F. Education

67. Education is compulsory for all resident children between the age of 4 years 9 months and 16 years. The Government is directly responsible for education within this age group. The system and curriculum are similar to those in the United Kingdom, although the Caymanian system has added some flexibility to allow students to attend colleges in the United States as well

as the United Kingdom. Two public institutions and one private school provide tertiary education. The Community College of the Cayman Islands is government-owned but independently administered. The Cayman Islands Law School is also government-owned, while the College of the Cayman Islands is private.

68. The Government currently operates seven primary schools, one middle school and one alternative education centre on Grand Cayman, as well as three primary schools and a high school, which incorporates the middle-school level, on Cayman Brac. Tuition is free for Caymanians at those schools. In addition, 10 private schools provide primary and/or secondary education. All private schools are monitored by the Education Department. In 1999, total enrolment was 4,000 in government schools and 2,093 in private schools.

69. In January 2001, the new Minister of Education, Human Resources and Culture, appointed after the November 2000 election, met with the representatives of the Chamber of Commerce to discuss ways to improve education, training and human resources practices in the Territory. The Minister and Chamber representatives agreed to support three proposals aimed at focused education and training of young people who are expected to join the future labour force: a national mentoring programme, national youth service and the establishment of nationally accepted high-school graduation standards.[26]

G. Public health

70. The Ministry of Health, Social Welfare, Drug Abuse Prevention and Rehabilitation, through the Health Services Department and Cayman Islands Counselling Centre, administers health care in the Cayman Islands. The Health Practitioners Board has responsibility for the registration of private practitioners. In addition to general medical care, a wide range of specialist services is available locally. The Health Services Department is responsible for the provision of all government health care, including public health services. The department operates two hospitals, a public health unit, four district health centres, a dental clinic (including school dental service) and the Lions Eye Clinic. The Government has a contractual arrangement with the Baptist Hospital in Miami for tertiary care services.

71. The Public Health Service, which functions under the responsibility of the Ministry of Health, Social Welfare, Drug Abuse Prevention and Rehabilitation, is responsible for primary health services dispensed at district health centres and through various community health programmes. In addition to the community health nursing staff, the team of public health officers includes three district medical officers, a health promotion officer, a genetics counsellor, a nutritionist and a dietician.

72. According to information provided by the administering Power, life expectancy at birth is 77 years in the Territory. The major causes of death were diseases of the circulatory system and malignant neoplasms.

73. The Health Services Department opened a new hospital in George Town in April 1999. The facility includes a state-of-the-art, fully staffed accident and emergency room.[27] Otherwise, there is a 59-bed hospital in George Town and an 18-bed hospital on Cayman Brac, and several district health centres and clinics.

74. According to press reports, 26,000 people in the Territory are covered by health insurance. Of those, about 10,000 are covered by the Government itself. As a result, most residents have at least minimal health care coverage. A health insurance law passed in 1997 established a system of compulsory health insurance for all residents.

75. According to the administering Power, under the Health Services (Fees) Regulations of 1975, contraceptive services are provided free of charge, in addition to free antenatal service, which is already being provided for all residents irrespective of nationality.

76. In 1997, a law was passed establishing the National Drug Council as an independent, non-profit statutory corporation with the mission of coordinating anti-drug efforts in the Territory. The Council was given the authority to develop policies and programmes to directly reduce the supply of and demand for drugs. It is responsible for coordinating the implementation of the Cayman Islands National Strategic Plan for Drug Abuse Prevention and Rehabilitation. It is also charged with examining ways to curb substance abuse through law enforcement, treatment and rehabilitation, education, public information and community support programmes.

77. A survey by the National Drug Council published at the end of 1998 had found that 11.5 per cent of students had used solvents and 10.5 per cent had used "ganja". The newly appointed drug coordinator noted in September 1999 that Cayman now had a serious substance misuse problem and the National Drug Council would endorse a strategy that called on the family, the community and the social services to work in concert and establish a national strategy to address the issue.

78. In February 2001, the National Drug Council published the results of its survey of the drinking patterns of the Territory's population. It revealed that 35.1 per cent of men between the ages of 15 and 19, 22.4 per cent between the ages of 20 and 29 and 18 per cent between the ages of 30 and 49 engage in heavy alcohol consumption. Medical practitioners consider the survey to be a baseline and that surveys need to be conducted annually to assess the dynamics of the problem.

H. Crime and public safety

79. The Royal Cayman Islands Police force comprises some 250 officers. It has a shortfall of Caymanian recruits and has officers seconded by the United Kingdom. Officers recruited are from Jamaica, Belize, Barbados, Canada, Nicaragua, Trinidad, Honduras, Bahamas, Nigeria and the United States.

80. Police statistics ending January 2001 indicate an overall reduction in serious crime of 36 per cent, compared with the same period in 2000; burglary showed a 45 per cent reduction; theft was reduced by 54 per cent; and violent offences fell by 53 per cent. The report noted that in some instances, persons arrested for burglary were also convicted for drug-related offences. Police data also show that overall crime detection for the five-year period continues to be over 70 per cent.[28]

V. Environment and natural resources

81. The natural environment of the Cayman Islands is still relatively healthy, although the tremendous rate of economic growth and accompanying physical developments are beginning to place considerable pressure on the delicate island ecosystems. Local laws and regulations and administrative and institutional arrangements which enable the protection and conservation of the natural environment are in place, and efforts are currently under way to strengthen and enhance local legislation. Through the Government of the United Kingdom, the Cayman Islands is party also to a number of legally binding international conservation agreements.[29]

82. The Islands have 25 endemic species of plants and reptiles. On Grand Cayman, a botanical park and bird sanctuary provide safe environments for endangered species of birds and lizards. Little Cayman is host to a wide variety of flora, fauna and birdlife. It also has its own bird sanctuary. Over 200 species of birds have been identified on the Islands. Over the years, the Government of the Cayman Islands has employed a variety of conservation strategies, including the establishment of a system of marine parks and protected areas on land and the development of public education and integrated species conservation. The Department of Environment and the National Trust, which play key roles in the implementation of these programmes, also carry out research and monitoring programmes to support the development of natural environmental policies and new conservation and protection initiatives. Growing public awareness and the development of expertise among government and non-governmental organizations have also contributed to placing local environmental concerns on the national agenda.[30]

83. A new marine pollution law has been drafted to encompass a range of developing legislation covering pollution of the air, sea and coast, pollution by oil, chemicals, garbage, dumping of waste, gas emission and funds for limitation of liability. This new law will also impact the Port Authority and the Department of Environment (with regard, inter alia, to spill response, reception facilities and monitoring prosecution). The Cayman Islands will also be the first Overseas Territory to which the Protocol on Specially Protected Areas and Wildlife will be extended.

84. The Cayman Islands have set a world standard in marine conservation. The Cayman Islands Turtle Farm serves as a breeding ground for the green turtle. After being bred and hatched on the farm, they are released into the ocean. This has led to an increase in the previously diminishing sea turtle population.[31]

85. Environmental health is also an important area of concern to the Government of the Cayman Islands. The

Environmental Health Department carries out its functions through sanitation inspections, solid waste management, recycling programmes and educational and promotional activities. It pursues programmes for mosquito control, including monitoring, larval inspection, wide-ranging techniques and research into the latest control methods.[32]

86. In February 2001, the Government published a draft of the Environmental Charter proposed by the United Kingdom, which is meant to conform to the principles set out in the Rio Declaration on Environment and Development. The draft charter covers such issues as environment and development interface, habitat and species conservation, pollution, energy and technology issues, and natural disasters. It also reflects local legislation, multilateral environmental agreements, environmental impact assessment, funding, education and regional and international links. The draft charter contains guiding principles and commitments for both the United Kingdom and the Cayman Islands related to the environment.

87. The United Kingdom commitments include assistance in building capacity for integrated environmental management, reviewing legislation, sharing relevant information and expertise and ensuring that Territory has the institutional capacity and mechanisms to meet international obligations. The United Kingdom also commits itself to using the Environmental Fund for Overseas Territories and promoting access to other sources of public funding for projects of lasting benefits to the Cayman Islands, as well as helping to identify other funding partners, such as official donors, the private sector and non-governmental organizations. It agrees to invite the Cayman Islands to participate, where appropriate, in the United Kingdom's delegation to international environmental negotiations and conferences.

88. According to the terms of the draft charter, the Government of the Cayman Islands would be committed to inviting the representatives of the Governor's office, governmental departments, industry and commerce and local communities to a forum in order to formulate a detailed strategy for action. In addition, the Government would integrate environmental considerations in its policy planning process, including in economic and social planning, ensure the adoption of adequate legislation, establish effective protection and enforcement mechanisms, protect and restore key habitats and species, encourage environmental education and promote education.[33]

VI. Future political status of the Territory: position of the administering Power

89. In March 1999, the Government of the United Kingdom presented to Parliament a White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories". Speaking in her capacity as Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs, Baroness Scotland, on 3 April 2000, reiterated the key recommendations of the Paper as follows:[34]

(a) A redefinition of the relationship between the administering Power and its overseas territories to promote self-determination, responsibilities for both partners, the exercise of democratic practices in the territories to allow the people of the territories the greatest degree of control over their own lives, and the continuance of British help to those overseas territories that need it;

(b) A priority for action in human rights. Those territories that choose to remain British must abide by the same standards of human rights and good governance as demanded of itself by the British Government, while local legislation must reflect the European Convention on Human Rights and the international convention on civil and political rights;

(c) A commitment to nurture and ensure the benefits from having a financial sector and the responsibility and obligation to ensure that the sector is properly regulated, adhering to all international standards of regulation and best practice. As a follow-up to this recommendation, Baroness Scotland made special note of a major consultancy study to review the existing state of financial regulation and organization in the territories set up and jointly funded by the administering Power and the Governments of the five Caribbean Overseas Territories and Bermuda;

(d) Finally, the need for constitutions to be updated to reflect current needs and, as far as possible, lay foundations that will endure for some years ahead. Emphasizing that there must be full consideration and consultation across political parties and the community as a whole, as well as with the administering Power,

Baroness Scotland stated that "We stand ready to consider ideas that have been fully discussed locally, that command wide local support and are appropriate, realistic and compatible with our international obligations and consistent with good government."

90. In addressing the Fourth Committee of the General Assembly on 26 September 2000, the representative of the United Kingdom stated that, over the preceding year, further progress had been made towards the modernization and development of the relationship between the United Kingdom and its overseas Territories. The inaugural meeting of the Overseas Territories Consultative Committee had taken place in 1999, and the second meeting would be held in London on 3 and 4 October 2000. That meeting provided a forum for a structured political dialogue and exchange of views between the elected representatives of the overseas Territories and the United Kingdom Government concerning the management of public affairs and the future development of the overseas Territories. The representative stated that her Government provided support to Territories afflicted by disaster, and offered a wide range of development assistance to those Territories which needed it. At the same time, in the spirit of partnership, it continued to promote sustainable development under strategic country programmes. She stated that, for her Government, the wishes of the peoples concerned, exercised in accordance with the Charter of the United Nations and other international treaties, were of paramount importance. The relationship continued to be based on the principles of self-determination, mutual obligations, freedom for the Territories to run their affairs to the greatest degree possible, and a firm commitment from the United Kingdom to help the Territories economically and to assist them in emergencies. She stated that her Government welcomed the efforts made by the Special Committee on decolonization to pursue informal dialogue with the administering Powers in order to ascertain the wishes of the peoples of the Territories with a view to the possible removal of those Territories from the Special Committee's list.[35]

91. On 6 December 2000, Baroness Scotland, Under-Secretary of State for Foreign and Commonwealth Affairs, reaffirmed that the Government of the United Kingdom remained committed to introducing legislation as soon as possible to ensure that the United Kingdom's offer of citizenship, as outlined in the White Paper on Overseas Territories[36] is delivered. She also said that her Government had initiated a consultation process with the Overseas Territories on issues relating to the legislation and its implementation and that her Government would act as soon as the bill became law.[37]

VII. Consideration by the General Assembly

92. On 8 December 2000, the General Assembly adopted resolution 55/144 B, a consolidated resolution on 11 Non-Self-Governing Territories, section V of which is specifically devoted to the Cayman Islands.

Notes

[1] The present working paper is based on information provided by the administering Power under Article 73 *e* of the Charter of the United Nations, as well as from published sources.

[2] *Cayman Net News* (www.caymannetnews.com), November 2000 and January 2001.

[3] NewsEDGE/LAN, 30 August 2000.

[4] Economist Intelligence Unit, *Country Profile: Cayman Islands* (2000).

[5] For the text of the White Paper, see A/AC.109/1991/1, annex.

[6] *Cayman Net News* (www.caymannetnews.com), February 2001, No. 2061.

[7] Ibid.

[8] Economist Intelligence Unit, *Country Profile: Cayman Islands* (2000).

[9] Cayman Islands Chamber of Commerce News Bulletin, January 2001.

[10] *Caribbean Insight*, 12 April 2001.

[11] *Cayman Compass*, 17 April 2001.

[12] *Caribbean Insight*, 30 March 2001.

[13] Statement by George McCarthy, Financial Secretary of the Cayman Islands, reported in *Economist Intelligence Unit ViewsWire*, 3 February 2000.

[14] Reuters, 28 February 2001.

[15] Comtex Scientific Corporation, via News EDGE/LAN, 8 February 2001.

[16] The *Miami Herald*, 7 December 2000; *Cayman Net News* (www.caymannetnews.com), January 2001, No. 2050; February 2001, No. 2058; *The Daily Journal from Brussels*, No. 41, 5 March 2001.

[17] *The Daily Journal from Brussels*, No. 41, 5 March 2001.

[18] *Cayman Net News* (www.caymannetnews.com), January 2001, No. 2050.

[19] Ibid.

[20] Cayman Islands, *Annual Report*, 1998.

[21] *Caribbean Insight*, 6 April 2001.

[22] Cayman Islands, *Annual Report*, 1998.

[23] *The Cayman Compass*, 9 August 1999.

[24] *Cayman Net News* (www.caymannetnews.com) 26 April 2001, No. 78.

[25] *The Cayman Compass*, 1 April 1999.

[26] Ibid., 25 October 1999.

[27] Cayman Islands Chamber of Commerce News Bulletin, January 2001.

[28] *The Cayman Compass*, 1 April 1999.

[29] *Cayman Net News* (www.caymannetnews.com), March 2001, No. 2065.

[30] Cayman Islands, *Annual Report*, 1998.

[31] British Overseas Territories White Paper, appendix I.

[32] Cayman Islands, *Annual Report*, 1998.

[33] *The Cayman Compass*, 23 February 2001.

[34] Speech given at a conference on the theme "Overseas territories: into the new millennium" held at Wilton Park, United Kingdom, on 3 April 2000.

[35] See A/C.4/55/SR.5, paras. 1-4.

[36] A/AC.109/1999/1, annex.

[37] Official web site of the United Kingdom Foreign and Commonwealth Office (www.fco.uk/news/newstext.asp?4472).

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

St. Helena

Working paper prepared by the Secretariat

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I. General

1. The Territory of St. Helena,[1] which is administered by the United Kingdom of Great Britain and Northern Ireland, consists of the island of St. Helena and two dependencies: the island of Ascension and a group of small islands forming the dependency of Tristan da Cunha.

2. Situated in the South Atlantic Ocean, approximately 1,900 kilometres from Angola and 2,900 kilometres from Brazil, St. Helena is a small island of volcanic origin. The Territory comprises a total land area of 412 square kilometres: Ascension lies 1,200 kilometres to the north-west of St. Helena, and Tristan da Cunha and the other small islands are approximately 2,400 kilometres to the south of it. St. Helena, where Jamestown, the capital of the Territory, is located, is the largest island, with an area of 122 square kilometres. The islands enjoy a tropical climate tempered by trade winds that blow throughout the year. They have a distinctive flora and fauna, with many rare or endangered species.

3. The inhabitants of St. Helena, who number approximately 5,000, are known as "Saints" or St. Helenians, and are of mixed origin. Approximately one third reside in Jamestown. English is the only language. Access to St. Helena is provided by the *Royal Mail Ship (RMS) St. Helena*, which stops en route between Cardiff in the United Kingdom and Cape Town in South Africa. The nearest airstrip is located on Ascension.

II. Historical background

4. St. Helena was discovered by the Portuguese navigator, Juan da Nova, on St. Helena Day, 21 May 1502. It was an uninhabited island. Its existence was kept secret until the English seafarer Thomas Cavendish came upon it in 1588. In 1633, the Netherlands claimed it but did not occupy the island. In 1658, a charter from the Lord Protector of Britain authorized the British East India Company to colonize and fortify the island, which was subsequently settled by the English. Slaves were brought from Africa, Madagascar and the Far East. Chinese and some Indian indentured labourers were brought to work on the island. King George II issued a charter to the East India Company setting out how the island should be fortified and governed. In the charter the King also gave the inhabitants full English citizenship in perpetuity. Napoleon Bonaparte was exiled to St. Helena from 1815 until his death in 1821. St. Helena became a Crown Colony in 1834.

III. Constitutional and political background and developments

5. The St. Helena Constitution Order of 1988, which entered into force on 1 January 1989, replaced the Constitution of St. Helena and dependencies introduced on 1 January 1967. Under the new Constitution, the Governor and Commander-in-Chief, who is appointed by the Queen, administers the Territory. He is assisted by an Executive Council and a Legislative Council.

6. The Legislative Council comprises the Speaker, 3 ex officio members — the Chief Secretary, the Financial Secretary and the Attorney General — and 12 elected members. The Executive Council is presided over by the Governor and consists of the ex officio members mentioned above and five of the elected members of the Legislative Council. Although a member of both the Legislative Council and the Executive Council, the Attorney General has no vote in either body.

7. Elections are held by secret ballot at intervals of not more than four years, by universal adult suffrage for those 18 years and older. Two political parties exist nominally, but since 1976 they have been inactive and elections have been held on a non-partisan basis.

8. The judicial system, based on the laws of the United Kingdom, is administered by the Supreme Court (there is a non-resident Chief Justice) and by a Magistrate's Court presided over by the senior of the three magistrates sitting at a session. There is also a Juvenile Court and a Small Debts Court. Provision exists for a Court of Appeal consisting of three judges, which can sit at Jamestown or London.

9. In January 1983, when the British Nationality Act came into force at the end of the Falkland Islands (Malvinas) conflict, St. Helenians had their citizenship rights taken away. Islanders consider that the restoration of full British citizenship to the people of the Territory is a matter of basic human rights. Islanders have had no nationality other than British (see para. 4 above). In order to support the restoration

of full rights of citizenship of those British subjects who are St. Helenian, a Citizenship Commission was set up in 1992 as the Bishop's Commission, by the Anglican Church on St. Helena. The Commission has 13 members on St. Helena and its branch in the United Kingdom has 7 members. Its main activity centres on bringing about public awareness locally, nationally and internationally about matters concerning citizenship and constitutional development of the Territory of St. Helena and its dependencies.

10. In 1994, the Legislative Council requested a review of the Constitution to include provisions for a bill of rights. The administering Power noted the statements made regarding the Constitution and was prepared to discuss it with the people of St. Helena. It also noted that the Commonwealth Parliamentary Association had sent a delegation in 1996 to study the Constitution. There followed a number of discussions and debates within both the Legislative Council and the House of Commons. More detailed information about political developments in and regarding St. Helena between 1994 and 1999 is covered in previous reports (A/AC.109/2071, paras. 5-8, A/AC.109/2115, paras. 4-8, A/AC.109/1999/16, paras. 4-12 and A/AC.109/2000/8, paras. 13-17).

11. On 17 March 1999, the Secretary for Foreign and Commonwealth Affairs of the United Kingdom, Robin Cook, submitted in the British House of Commons a White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories".[2] The White Paper enumerated the changes in the status of the United Kingdom's Dependent Territories, including the Territory of St. Helena and its dependencies. The title of the Territories was changed from "British Dependent Territories" to "British Overseas Territories" to reflect the United Kingdom Government's stated goal of partnership with those peoples.

12. The stipulations in the White Paper of greatest relevance to St. Helena are: an offer of British citizenship, and with it, the right of abode in the United Kingdom to those that choose to accept it; a commitment to continuing financial assistance to those Territories, including St. Helena, that remain economically dependent on British aid; and the creation of an Overseas Territories Minister and a Council of the Overseas Territories, both having responsibility for the needs of the Territories. The Council would include the Chief Ministers of each Overseas Territory and would convene annually. The Citizenship Commission and the elected members of the Legislative Council discussed the White Paper and presented their findings to the Government of the United Kingdom in June 1999.

13. On repeated occasions during 1999/00, members of the Legislative Council, the Citizenship Commission and members of parliament speaking on behalf of St. Helenians have called for prompt legislation to ensure the restoration of citizenship rights. According to press reports, in December 2000, following the absence of any reference to the matter by the Queen in her annual speech, the Minister for Overseas Territories, Baroness Scotland, stated the following:

> "I well understand that there will be disappointment about the Overseas Territories bill. I want to reaffirm that the Government remains committed to introducing legislation as soon as possible to ensure that our offer of citizenship, outlined in the White Paper, is delivered. We recently initiated a consultation process with the Overseas Territories on issues relating to the bill and its implementation. This process is in prime position to act as soon as the bill becomes law."

Similar assurances were made by the Governor of St. Helena in January 2001 and by Prime Minister Tony Blair in May 2001 in response to a letter from Bishop John Salt, Patron of the Citizenship Commission.[3]

14. Elected members of the Legislative Council and the Citizenship Commission continue to request that discussions with the United Kingdom authorities not be limited to the citizenship issue but also include debate on the merits of different constitutional options for St. Helena, namely the status quo, Crown dependency or integration. In this respect the Commission recalls the conclusion of its first report in 1996, as follows:

> "We consider the island's young people who have not yet made their life and money and home; it is not an escape route to England that they need but the political and economic basis to make a good life as British citizens on their own island."[4]

15. A memorandum from the Foreign and Commonwealth Office to the St. Helena Legislative Council, which is summarized in the *St. Helena News* of 5 January 2001, reiterates that neither integration nor Crown dependency status is on offer and points to

the view that progress can only be made in developing the current constitution of St. Helena as an Overseas Territory.

IV. Economic conditions

A. General

16. In "The St. Helena Strategic Review 2000-2010", issued in September 1999, the Government of St. Helena pointed out that a key difficulty in assessing the state of the economy remained the lack of up-to-date and accurate economic indicators.

17. According to the country policy plan (2001-2003) of the United Kingdom's Department for International Development, the economy of St. Helena remains dominated by the public sector, with government expenditure equivalent to around 95 per cent of the gross national product. Government employment is around 60 per cent of total employment and employment in the public sector overall (including parastatals and majority-owned enterprises) accounts for some 70 per cent of the total. According to the Department for International Development, this dominance is inconsistent with longer-term economic development.

18. St. Helena possesses few natural resources. As food production is insufficient to supply the island's needs and there is a lack of manufacturing industries, the vast majority of the island's requirements must be imported. The cost of living in St. Helena is higher than in the United Kingdom, owing to costs related to the remoteness of the island. The retail price index in February 1999 was 111.82 (base year November 1994 = 1,000), compared with 109.62 in February 1998. St. Helena's economy is aid-dependent, relying on resources from the United Kingdom for approximately 26 per cent of its 1997/98 public-sector recurrent budget. Development aid represented another 18 per cent of its budget. Virtually all its capital investment and the majority of the technical cooperation it receives is funded by the Department for International Development, the United Nations Development Programme (UNDP) and the European Union.

19. In the St. Helena Strategic Review 2000-2010, the Government outlines the options for St. Helena to generate sustainable wealth under the following categories: internal investment; tourism; exports; and import substitution. With the exception of the last, all are heavily dependent on significantly improved access. It is the Government's view that the shipping schedule currently in place fails to deliver the type of access that the island needs. This means that without a fundamental change in access, St. Helena will continue to be an aid-dependent Territory for the foreseeable future and the level of aid required will have to increase yearly just to maintain the current level of services. There will also be a greater dependence on expatriate staff to deliver services that are currently provided principally by St. Helenians, (see also para. 28 for further discussion of access to St. Helena).

B. United Kingdom development assistance

20. In 2000, a new country policy plan for the period from 2000/01 to 2002/03 was agreed between the United Kingdom's Department for International Development and the Government of St. Helena. The country policy plan committed the Government to a significant change in programme designed to make the island more self-sufficient by promoting the private sector and raising efficiency in the public sector. The Department for International Development pledged £29 million in development assistance resources, an increase of £3 million compared with the previous country policy plan period. Within this amount, a budgetary aid allocation of £12.6 million was agreed upon to meet anticipated budget deficits over the next three years, based on budget projections produced by the territorial Government.[5]

21. The development assistance agreed under the country policy plan also comprises an annual subsidy for the operation of the *RMS St. Helena* and support for bilateral development assistance; awards for training in the United Kingdom; and a number of infrastructure development projects such as road works and wharf improvement.

C. Development projects

22. The UNDP 1997-1999 country cooperation framework for St. Helena, which was extended into 2000, was focused on employment and sustainable livelihoods. Given the Territory's efforts to increase the

role of its private sector and to mitigate unemployment, it was agreed that the emphasis would be on activities in private sector development, particularly on enterprises linked to tourism. Within this development context, the following projects were implemented:

(a) **Tourism**: providing technical and other assistance in the implementation of development and marketing proposals in the tourism master plan for the island;

(b) **Support for sustainable livelihoods**: assisting the Government of St. Helena by strengthening its capacity to plan and implement development projects for the purpose of promoting long-term sustainable human development, by providing technical support, training office staff and producing the island's first national human development report;

(c) **Tourism sector employment and private sector development**: stimulating the private sector through the development of the tourism industry through vocational training projects and improving the island's tourism product.

23. The second UNDP country cooperation framework for St. Helena (2001-2004) maintains the above projects in a revised form. UNDP states that while tourism-sector employment and private-sector development are making good progress, tourism is unlikely to increase significantly unless air and/or sea access is improved. In the meantime, it has been agreed to add further dimensions to UNDP development aid; the first is a scientifically based study to determine the causes of contamination of the island's water supply and the second is to provide fisheries with remote-sensing equipment to enable St. Helena to protect, far more efficiently than at present, its territorial waters.

D. Agriculture and fisheries

24. According to the St. Helena Strategic Review (2000-2010), land is a scarce resource on the island and it is not well used. There are four major uses: commercial, residential, government and amenity. A high proportion of land is classified as "Crown wastes" and protected for reforestation with native species. The majority of agricultural land is owned by the Government and leased for subsistence farming, mainly for pasture with a small amount for arable land. The Government also owns the majority of forestry land. The Agriculture and Forestry Department provides support to smallholder producers, including agricultural loans, through a revolving credit fund. The principal export crop is coffee, of which 1.597 tons were exported to the United States of America, South Africa and the United Kingdom in 1999/00. All other crops are for food or fodder. Potatoes are the main carbohydrate staple, although greatly supplemented by imported rice. Livestock include (in descending order of quantity), poultry, goats, sheep, cattle and pigs. Half of the agricultural production is sold through retail outlets, 42 per cent is sold privately and 6 per cent is kept for household consumption. The recent opening of a meat processing business is expected to improve marketing. The main marketing organization is the St. Helena Growers Cooperative Society, which has 108 members.

25. The St. Helena Fisheries Corporation processes and exports frozen fish. The total value of exports for 1999/00 was £92,465. The total value of fish processed and sold on the domestic market was £135,581. Projected income from fishing licences is expected to decrease from £700,000 in 2000 to £200,000 in 2001, mainly owing to a decrease in the request for licences from Japanese fleets.[6]

E. Manufacturing and industry

26. There is no large-scale industry on St. Helena. All crafts are produced on a cottage industry basis, with technical, financial and marketing facilities provided by the Government through the St. Helena Development Agency, established in 1995 to promote the private sector. In financial year 1999/00, the Agency approved loans totalling £138,115 and grants amounting to £40,832. This financial assistance is focused on industries identified as having the greatest potential for development, namely, fishing, agriculture, tourism, exports and import substitution.

F. Transport, communications and utilities

27. The island has over 100 kilometres of surfaced roads, to which 0.5 kilometres were added in 1999/00. There is no airport or airstrip on St. Helena, and no railway. The only port is Jamestown, which provides good anchorage for ships of all sizes. The island's main

link with the outside world continues to be the *RMS St. Helena*, which is owned and chartered by the St. Helena Shipping Company, Ltd., and which plies between Avonmouth in the United Kingdom and Cape Town in South Africa, calling at the Cape Verde islands and Ascension. The service receives an annual subsidy from the United Kingdom.

28. In the St. Helena Strategic Review (2000/2010), the Government stresses that "the island's extreme aid dependency cannot be reduced until access to the island is fundamentally improved". In September 2000, the Foreign Office appointed High Point Rendell, a consulting company, to undertake a comparative study of air and sea access to identify the least costly solution to St. Helena's future international passenger and cargo transport needs. The final report was expected to be available for discussion by mid-2001. The Government of St. Helena has already declared its preference for air access as the most effective way to attract investment and tourism and to create much-needed local employment.[7]

29. Electricity (by diesel and wind power) , water and roads are provided by the Public Works and Services Department, which employs approximately 273 workers. The Department's annual expenditure is £1.8 million and it receives income from the sale of power, water and services, totalling some £1.2 million.

G. Banking and credit

30. The only bank is the Government Savings Bank, which does not offer the full range of normal commercial banking facilities. Limited credit facilities for house-building and home improvements are made available on very easy terms through the Government Housing Loans Board and the Government Savings Bank.

31. All financial transactions are ultimately channelled through London, and United Kingdom bank rates apply. No exchange controls operate on the island and, to the extent that overseas transactions are channelled through London, United Kingdom control measures apply. The deficit in the island's trading operations is in effect made up through the grant-in-aid from the United Kingdom Treasury.

32. The value of local currency in circulation as at 31 March 2000 was £2,942,650, of which £2,492,470 was in notes and £450,180 in coins. The St. Helena pound is equivalent to the pound sterling.

H. International trade

33. St. Helena's main imports are food products and tobacco, motor spirits and fuel oil, animal feed, building materials, motor vehicles, machinery and spare parts. Its only exports are fish (including what is said to be the world's first organically registered wild fish), handicrafts and coffee. Its main trading partners remain the United Kingdom and South Africa. Other partners include Brazil and Ascension.

V. Social conditions

A. General

34. Comparisons of indicators that appear in both the 1987 census and the 1998 census show a steady improvement in St. Helena's standard of living. However, according to the St. Helena Strategic Review, over the same period real wages in the public sector fell by around 16 per cent while the number of St. Helenians working offshore roughly doubled. Thus, the St. Helena's increased standard of living can be considered to be principally attributable to offshore employment and its related remittances. The Department for International Development/Foreign and Commonwealth Office team, which negotiated the country policy plan for 2001/01 to 2002/03, states that, measured by international norms, St. Helena is a middle-income country with few signs of real material poverty. However, the team adds that this is largely owing to the all-encompassing government safety net, which guarantees everyone a minimum standard of living, and to social networks, which encourage the distribution of income among kin, most notably in the form of remittances. The country policy plan identifies two particularly vulnerable sectors, namely the increasing number of elderly people (expected to be 24 per cent of the population by 2010) who live on social benefits, and the disabled, who have special, unmet needs. It also points to a "culture of dependency" on the island, partly as a consequence of the Government being the main employer and almost the only provider of services. The Government notes in the St. Helena Strategic Review that the impact that the future restoration of British citizenship may have is as yet

unknown, but it adds: "In general, it can be expected that it will be the young people who will leave the island and a high proportion will not return. This will lead to a greater imbalance between young and old and there is every reason to believe that, over time, St. Helena will become an island of the old, poor and unemployable." Faced with this prospect, recent strategic plans for the Territory have been aimed at identifying options to generate sustainable wealth on St. Helena.

B. Employment

35. As a result of the dependence on imports, the paucity of exports and a small internal market, there are limited employment opportunities on St. Helena. The public sector remains the dominant employer, accounting for over 70 per cent of those employed. Offshore employment, mainly in Ascension and the Falkland Islands (Malvinas), has grown rapidly over the last decade, increasing from 20 per cent to over 30 per cent of the total workforce, and now stands at its highest level ever, some 1,300, of a total workforce of 3,700. The restoration of British citizenship may see a further increase in the numbers seeking work in the United Kingdom. There is a concern, in the longer term, about sustaining services and infrastructure.

36. As virtually all contracts for offshore employment are for unaccompanied workers, there is considerable dislocation of families. Slightly more than 100 offshore workers have left children in care on St. Helena. Of that number, 67 per cent are cared for by grandparents and 33 per cent are in the care of other relatives or friends.

37. At the end of March 2000, 494 needy people were receiving income-related benefits, at weekly rates varying from £18.95 to £45. In addition, an unemployment allowance was paid to 80 people, at rates varying from £12.80 to £40 per week.

C. Public health

38. According to the administering Power, recurrent public health expenditure in 1999/00 was £1,651,040, which is 13.28 per cent of the total government recurrent expenditure. There is a 42-bed general hospital in Jamestown, seven outpatient clinics, an elderly care complex, a centre for the mentally infirm and a centre for the mentally and physically handicapped. St. Helena has a very high incidence of diabetes and hypertension, widely perceived to be genetic in origin. The rapidly ageing population is increasing the pressure for medical resources. Given St. Helena's geographical isolation, the areas of greatest financial concern in the public health area are the high cost of drug purchases and the coverage of inevitable overseas referrals.[8]

D. Education

39. Education is compulsory and free for children between 5 and 15 years of age. In 1999/00, 830 children were attending 8 public schools in the Territory. There were 122 teachers, of whom 117 worked full time and 5 part time. Total expenditure by the Education Department in 1999/00 was estimated at £1,248,690, which is approximately 10.04 per cent of the total government recurrent expenditure.

40. The introduction of British standardized tests in English and mathematics in the first and middle sections of school have shown that the majority of pupils score lower than their British counterparts. Results from the secondary school examination for students 16 years of age and over show that these pupils are also seriously underachieving, with less than 12 per cent each year attaining the minimum five qualifying grades for the General Certificate of Secondary Education or equivalent, compared with 40 per cent in the United Kingdom. These problems have been attributed in part to the high level of staff turnover and their lack of qualifications and experience.

E. Environment

41. St. Helena has an environmental conservation programme aimed at preserving endangered species and diversity of habitats. The plants that are unique to St. Helena form an important part of the Territory's heritage and could potentially increase tourism. The World Conservation Union lists as endangered 40 per cent of the St. Helena's plants, while other conservationists insist that the actual proportion is higher still. Concerted efforts are being made to ensure their survival and conservation. During 2000, the islanders planted over 4,000 gumwood trees in the Millennium Forest in an effort to regenerate native

species. The Territory also sent delegates to environmental conferences held in Gibraltar and the Isle of Skye.[9]

VI. Dependencies of St. Helena

A. Tristan da Cunha

1. General

42. The dependency of Tristan da Cunha[10] is composed of four islands, the main island, named Tristan da Cunha, plus Gough, Inaccessible and Nightingale. Tristan da Cunha, a round volcanic island with an area of 98 square kilometres, is the most remote inhabited island in the world. Its closest neighbours are St. Helena, 2,334 kilometres to the north and Cape Town, 2,778 kilometres to the east. Its population was evacuated to the United Kingdom when the volcano last erupted in 1961, but they returned in 1963. The only settlement on the island is the capital, Edinburgh of the Seven Seas. According to the Administrator, as of December 2000, the population was made up of 283 people divided into approximately 100 households.[11] A team of South African meteorologists lives on Gough. Inaccessible and Nightingale are uninhabited.

2. Constitutional and political status

43. Executive authority for Tristan da Cunha is exercised by the Governor of St. Helena. A resident Administrator is appointed by the Governor and is responsible to him. The Administrator is advised by an Island Council, led by the Chief Islander and comprising eight elected members (including at least one woman) and three appointed members. Elections are held every three years. All registered voters over 18 years of age are eligible to vote.

44. Tristan da Cunha has its own legislation, but St. Helena law applies to the extent that it is not inconsistent with local law, in so far as it is suitable for local circumstances and subject to such modifications as local circumstances make necessary. There is one full-time police officer and three special constables. The Administrator is the Magistrate.

45. Residents of Tristan da Cunha will receive the options of British citizenship and residency after parliamentary passage of the resolutions contained in the White Paper entitled "Partnership for Progress and Prosperity: Britain and the Overseas Territories" (see para. 12).

3. Environment

46. The islands have a very distinctive endemic flora and fauna and are important breeding grounds for many seabirds, many of them rare, such as the Tristan Albatross. The declaration of Gough Island as a World Heritage Site and of Inaccessible as a nature reserve means that 40 per cent of the dependency's land is under protection. Marine life is also protected. In March 2001, the Administrator signed a regulation creating a reserve for whales and dolphins throughout the territorial waters.[12]

4. Economic and social conditions

47. According to the Administrator, Tristan da Cunha is almost self-supporting economically, with overseas funding required only for large capital projects. The Government is the chief employer on the island with a work force of 143. The lobster factory provides permanent employment for 23 and casual employment for a further 110 people on fishing days, when 20 small island boats catch lobster for processing. The lobster fishery is operated under an exclusive concession granted by Tristan da Cunha to a South African company. Two company ships fish around Inaccessible, Nightingale and Gough, while the islanders fish around Tristan da Cunha. In addition to royalties and employment, the fishing company also provides a passenger and cargo service to Cape Town. Other sources of income — a limited tourist industry based on three or four ship visits per year and the sale of postage stamps — cannot realistically be increased significantly. Other potential sources, such as the sale of mineral water, would require considerable capital investment.

48. Revenue provided by the royalties from lobster fisheries and interests from a reserve fund finances government activities such as the provision of free health care and education. Tristan da Cunha's only hospital is staffed by a qualified expatriate medical officer and four nurses. When required, medical treatment is provided overseas. The Tristan da Cunha Government has recently bought a house in Cape Town to accommodate islanders who are evacuated there for medical treatment.

49. Education is free and compulsory for all children between 5 and 15 years of age. Working men and women are encouraged to continue their education under a "day-release" programme.

50. There are no air services to Tristan da Cunha. Transport to and from the island is provided by the yearly call of the *RMS St. Helena*, an occasional passenger ship, two fishing concession vessels and the South African research vessel *SA Agulhas*. Owing to rough seas the harbour is accessible only for 60 to 70 days a year. Improvements to the harbour are considered vital to Tristan da Cunha's future. Work is under way to design and construct a safer harbour which would increase visits by passing ships.

5. Development assistance

51. The United Kingdom's assistance to Tristan da Cunha is modest and consists of support for the provision of medical care on the island and continuing support for the Fisheries Management Project. The European Union also provides financial assistance for the purchase of machinery to be used in the construction of the harbour.[13]

B. Ascension

1. General

52. Ascension was discovered by the Portuguese in 1501 and "found" again on Ascension Day in 1503 by Alphonse d'Albuquerque, who named the island. In 1815, when Napoleon was a prisoner on St. Helena, a small British naval garrison was stationed on Ascension. The island remained under Admiralty supervision until 1922 when it was made a dependency of St. Helena. From then until 1964 the island was managed by the Eastern Telegraph Company (renamed Cable and Wireless in 1934). In 1964, in view of the plans to establish British Broadcasting Corporation (BBC) and Composite Signal Organization stations, an Administrator was appointed. During the Second World War, the United States Government built the Wideawake airstrip on the island. In 1957 a United States Air Force presence was re-established and the airstrip and ancillary facilities were enlarged. It is now the south-east tracking station for the United States Air Force Eastern Test Proving Ground. In 1982, it became the intermediate stop for Royal Air Force flights to and from the Falkland Islands (Malvinas).

53. Ascension covers an area of 90 square kilometres and is of volcanic origin. There is no indigenous population. The total population is about 1,100, comprising the employees of companies established on the island and their family members.

2. Constitutional and political status

54. Executive authority for the Territory is exercised by the Governor of St. Helena. A resident Administrator is responsible to the Governor. Ascension Island's own legislation is of a limited range. However, English law applies to the extent that it is not inconsistent with local law, in so far as it is suitable for local circumstances and subject to such modifications as local circumstance make necessary.

55. Ascension has for many years been primarily an important communications centre. Thus, until very recently, all public services were provided by Ascension Island Services (AIS), a joint venture partnership between BBC World Service and Cable and Wireless directed by a London Board of "Users". Owing to changed geo-political priorities and rising salaries, in 1999 the London Board decided to disband the joint venture by 31 March 2001. The Overseas Territories Department of the Foreign and Commonwealth Office then commissioned the University of Portsmouth to examine the provision of financing for Ascension's public services and the island's long-term development options. Based on the University report's findings, a new governance structure has been established on the island as follows: with the dismantling of AIS on 31 March 2001, the Ascension Island Government has taken on responsibility for providing health and education services. Other services, such as road maintenance, refuse disposal and port operation, are now provided by a statutory body known as the Ascension Island Works and Services Agency, wholly owned by the Government. Other facilities hitherto provided by AIS, such as the guest house and island shop, are to be operated by a new company, Ascension Island Commercial Services, jointly owned by the Government, BBC World Service and Cable and Wireless.[14]

3. Economic and social conditions

56. According to the Administrator, revenue for the first year of operation of the new Ascension Island Government will derive mainly from the employment

levy which will continue to be charged, from the Users (BBC and Cable and Wireless), from receipts from the Ministry of Defence and from receipts for services and goods provided by the Government (such as postage stamps and immigration fees). With respect to long-term funding, the aim is to introduce a fiscal system and a customs regime within the next year without decreasing the purchasing power of the people living on Ascension and without increased costs for the Users.

57. Ascension is of considerable environmental interest as it is a breeding site for the green turtle and numerous species of seabirds, as well as home to abundant marine life. According to the Administrator, efforts are being continued to develop a sustainable, low-volume eco-tourism industry on the island.[15] The Foreign and Commonwealth Office has recently committed £500,000 to restoring the seabird and turtle colonies on Ascension. The project covers the appointment of a Conservation Officer as well as eradication measures against rats and feral cats to protect bird life. This contribution will be matched by a major fund-raising campaign by the Royal Society for the Protection of Birds.[16]

58. Regarding air access to Ascension, talks are continuing with the United States authorities with regard to opening up Wideawake airport to civilian commercial flights.[17]

VII. Future status of the Territory

A. Position of the administering Power

59. The White Paper entitled "Partnership for Progress and Prosperity" (see para. 11) proposes the granting of the option of British citizenship and the right of abode in the United Kingdom for residents of St. Helena, as well as a renewed commitment to assisting St. Helena's economic development. The objectives in providing development assistance are stated in the paper as follows:

(a) To maximize economic growth and self-sufficiency through sensible economic and financial management, leading to graduation from such support where this objective is feasible;

(b) To ensure in the meantime that basic needs are met, including the provision of essential infrastructure;

(c) To support the good governance of the Territories, including the proper management of contingent liabilities and the fulfilment of the United Kingdom's international obligations, particularly human rights and the multilateral environment obligations.

60. The representative of the United Kingdom, in addressing the Fourth Committee of the General Assembly on 26 September 2000, said, inter alia that over the past year, further progress had been made towards the modernization and development of the relationship between the United Kingdom and its Overseas Territories — one of her Government's priorities since coming into office. The inaugural meeting of the Overseas Territories Consultative Committee had taken place in London in 1999, and the second meeting would be held in London on 3 and 4 October 2000. The meeting provided a forum for structured political dialogue and exchange of views between the elected representatives of the Overseas Territories and her Government concerning the management of public affairs and the future development of the Overseas Territories.

61. She added that her Government provided support to Territories affected by disaster, and offered a wide range of development assistance to those Territories that needed it. At the same time, in a spirit of partnership, it continued to promote sustainable development under strategic country programmes. For the United Kingdom, the wishes of the peoples concerned, exercised in accordance with the Charter of the United Nations and other international treaties, were of paramount importance. The relationship continued to be based on the principles of self-determination; mutual obligations; freedom for the Territories to run their affairs to the greatest degree possible; and a firm commitment from the United Kingdom to help the Territories economically and to assist them in emergencies.[18]

B. Position of the Territory

62. In September 1999, the Government of St. Helena published "The St. Helena Strategic Review 2000-2010", in which it outlined its medium-term and long-

term vision for St. Helena. In that document the Government states that its aims, although ambitious, are realistic and must be achieved if St. Helena is to become a sustainable economic entity. Further, the restoration of British citizenship is of key importance.

63. In its review, the Government points out that St. Helena remains heavily dependent on aid from the United Kingdom to retain its current standard of living. Noting the objectives of the United Kingdom (see para. 59 above), the strategic review is based on assisting the United Kingdom in achieving those objectives with regard to St. Helena. However, the review concludes that "without radically improved access there is no future for St. Helena"; what is meant here is air access. The Government of St. Helena recognizes that air access offers the Territory its last opportunity to break out of its aid dependency and to achieve its vision. It expresses the hope that the Government of the United Kingdom realizes this as well and that it will fund an airport on St. Helena.

64. The Citizenship Commission of St. Helena, established in 1992 (see para. 9 above), continues to defend the restoration of full rights of citizenship for St. Helenians, as well as their right to consider changes in the Territory's constitutional relationship with the United Kingdom. Recently, on behalf of the Citizenship Commission, the Faculty of Law of the University of Toronto examined the merits of this case in accordance with international law (see also para. 68).

VIII. Consideration of the question by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

65. Eric Walter George, member of the Legislative Council of St. Helena, participated as an expert in the Pacific Regional Seminar organized by the Special Committee to review the political, economic and social conditions in the small island Non-Self-Governing Territories, held at Majuro, Marshall Islands, from 16 to 18 May 2000.

66. Mr. George maintained that the United Kingdom should reconsider its options on constitutional development in the island. Those options should include the present Constitution as well as the freely determined will of the people, taking into account article 21, paragraph 3 of the Universal Declaration of Human Rights and General Assembly resolution 1514 (XV), to bring about appropriate alternatives to the present situation. In the White Paper on Partnership for Progress and Prosperity, it was stated that those arrangements needed to be revisited, reviewed and, where necessary, revised. According to Mr. George, St. Helena needed to move away from the present situation where the economic level was maintained solely as a result of United Kingdom aid, to one that generated its own wealth by improving access to the island. St. Helena needed the assistance of the Special Committee to achieve this.

67. In their conclusions, the participants in the Seminar welcomed the participation of an expert from St. Helena for the first time, and noted with concern the continuing socio-economic problems faced by the Territory, including high unemployment and limited transport and communications, and requested the Special Committee to bring the matter to the attention of the administering Power for remedial action (A/55/23 (Part I), annex, para. 39).

68. The Special Committee considered the question of St. Helena in July 2000 in the context of its consideration of the questions of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman islands, Guam, Montserrat, Pitcairn, St. Helena, the Turks and Caicos Islands and the United States Virgin Islands. The Special Committee had before it the working paper on St. Helena (see A/AC.109/2000/8). At the 7th meeting, on 10 July, the Acting Chairman drew attention to draft resolution A/AC.109/2000/L.9. At the same meeting Ed Morgan made a statement on the question of St. Helena on behalf of the Citizenship Commission of St. Helena (see A/AC.109/2000/SR.7) At its 13th meeting, on 13 July, the Special Committee adopted revised resolution A/AC.109/2000/L.9/Rev. 1 and Corr.1 without a vote (see A/AC.109/2000/30).

B. Special Political and Decolonization Committee (Fourth Committee)

69. At its 11th meeting on 12 October 2000, the Fourth Committee adopted the draft consolidated resolution on the question of American Samoa, Anguilla, Bermuda, the British Virgin Islands, the Cayman islands, Guam, Montserrat, Pitcairn, St. Helena, the Turks and Caicos Islands and the United States Virgin Islands (A/C.4/55/L.5) by consensus (see A/C.4/55/SR.11, para. 40).

C. General Assembly

70. On 8 December 2000, the General Assembly adopted without a vote resolution 55/144 B, a consolidated resolution on the Non-Self-Governing Territories. Referring to St. Helena specifically in section IX of the resolution, the Assembly noted that the administering Power was prepared to discuss further with the people of St. Helena the statements made by members of the Legislative Council about the Constitution, and requested the administering Power to keep the Secretary-General informed of the wishes and aspirations of the people of the Territory regarding their future political status. The Assembly also requested the administering Power and relevant regional and international organizations to continue to support the efforts of the territorial Government to address the socio-economic development challenges of the Territory, including high unemployment and the problems of limited transport and communications.

Notes

[1] Information contained in the present working paper has been derived from information transmitted to the Secretary-General in June 2000 and April 2001 by the Government of the United Kingdom of Great Britain and Northern Ireland under article 73 *e* of the Charter of the United Nations, and from published sources.

[2] "Partnership for Progress and Prosperity: Britain and the Overseas Territories", White Paper submitted to the House of Commons on 17 March 1999 and set out in A/AC.109/1999/1, annex.

[3] *St. Helena News*, 8 December 2000 and 5 January and 4 May 2001.

[4] St. Helena: the lost county of England, *A Report by the Bishop of St. Helena's Commission on Citizenship* (St. Helena, 1996), as quoted in the *St. Helena News*, 24 November 2000.

[5] Letter from Under Secretary of State, reported in the *St. Helena News*, 2 March 2001.

[6] Governor's Christmas Message, reported in the *St. Helena News*, 5 January 2001.

[7] *St. Helena News*, 13 October 2000 and 4 May 2001.

[8] Human Development Report, 1999, St. Helena.

[9] *St. Helena News*, 25 August and 15 December 2000.

[10] Information derived from "Tristan da Cunha" (1998), by Brian Baldwin, Administrator of Tristan da Cunha.

[11] Interview with the Administrator of Tristan da Cunha, Falkland Islands News Network (SARTMA), 6 December 2000, (see www.sartma.com).

[12] Statement by the Foreign and Commonwealth Office Minister of State, House of Commons, 26 March 2001.

[13] Interview with European Union official, Christian Simmons, SARTMA, 16 January 2001.

[14] Administrator of Ascension Island, news release, 31 March 2001.

[15] *St. Helena News*, 6 April 2001.

[16] Foreign and Commonwealth Office, news release, 26 March 2001.

[17] *The Islander*, 8 March 2001.

[18] A/C.4/55/SR.4.

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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

American Samoa

Working paper prepared by the Secretariat

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I. Background information

A. Geography

1. American Samoa,[1] a Non-Self-Governing Territory of the United States of America, is located in the South Pacific approximately 3,700 kilometres south-west of Hawaii and 4,350 kilometres north-east of Australia. It consists of seven islands (Tutuila, Aunuu, Ofu, Olosega, Tau, Swains and Rose) and several lesser islands belonging to the Samoan group. Swains Island is 340 kilometres north of Tutuila and is administered as an integral part of American Samoa. The terrain includes five volcanic islands with rugged peaks and limited coastal plains, and two coral atolls, Rose Island and Swains Island. The total land area of the Territory is 197 square kilometres, about 70 per cent of which is covered by dense forest. Lying near the equator, between 13° east and 16° south-east, American Samoa has a typical tropical climate with a wet and a dry season. Tutuila, the largest island, constitutes 70 per cent of the total land area and is home to 90 per cent of the population. Pago Pago, the capital and the site of one of the Pacific's greatest natural harbours, is located on Tutuila.

2. The Samoan islands are in the path of the south-west trade winds, which bring frequent rains, averaging 200 inches annually and resulting in lush vegetation in most of the islands, most of the time. The mountainous terrain and the heavy annual rainfall have important implications for agriculture and the domestic food supply. The soil of the slopes is thin as a result of leaching and can support only jungle vegetation. The soil in the valleys and on the plains is fertile and suitable for growing tropical fruits and vegetables, but there is not much of it. Commercial agricultural development has been constrained by the scarce supply of level land for which there are a number of competing uses.[2]

B. History

3. It is generally believed that the Samoan archipelago was settled some 3,000 years ago by people migrating into the Pacific from South-East Asia. The Dutch were the first Europeans to find these islands, in 1722. Some settlers came to the islands in the early 1800s, followed by missionaries in 1830. By the late 1800s, internal strife among the chiefs and struggles among the colonial Powers of Germany, Great Britain and the United States led to a period of instability. In 1899, after the signing of a treaty by the three Powers, Germany annexed Western Samoa and a year later, in 1900, the eastern islands (American Samoa) were ceded to the United States.

4. Deeds of cession of these islands to the United States were formally accepted by means of an Act of Congress on 20 February 1929. Pursuant to this Act, the native inhabitants were given the status of American nationals. The Act provided for an American Samoan Government with all civil, judicial and military powers to be vested in a designee of the President of the United States.

5. American interest in the eastern end of the Samoan archipelago was mainly military. Pago Pago Harbor, one of the deepest natural harbours in the South Pacific, was seen to be of value as a coaling station for American ships. Consequently, the Territory was placed under the jurisdiction of the United States Navy, which controlled access to it and appointed its Governor until 1951. An executive order transferred authority over the Territory to the Department of the Interior in 1951, paving the way for civilian rule.

C. Population

6. American Samoa's population is growing rapidly, at an annual rate of 2.64 per cent. According to the *World Fact Book* of July 1999, the population is estimated at 63,786. The annual birth rate is 26.53 births per 1,000 population and the annual death rate 4.04 deaths per 1,000 population. The annual net migration rate is 3.92 migrants/1,000 population. The sex ratio is 1.02 males/female. Life expectancy is 75.46 years, with male life expectancy at 71.23 years and female life expectancy at 79.95 years. The median age is 21 years.

7. Ethnically, the population breaks down into 89 per cent Samoan (Polynesian), 4 per cent Tongan, 2 per cent Caucasian and 5 per cent other groups. Some 50 per cent of American Samoans belong to the Christian Congregationalist Church, 20 per cent are Roman Catholic and 30 per cent are Protestant and other denominations. The population speaks Samoan which is closely related to Hawaiian and other Polynesian languages, and English. Most people are bilingual. The literacy rate is 97 per cent.

8. Rapid population growth places a strain on the public infrastructure and on the ability of the Government of American Samoa to provide necessary services. In his State of the Territory address delivered in January 2001, the Governor of American Samoa announced that he would soon release the report of the Population Growth Task Force, which was established in 2000 to examine the social and environmental issues associated with the Territory's rapid population growth and make recommendations for action. He said that the first step in controlling the problem would be to address the issue of immigration (see para. 88 below).

II. Constitutional, legal and political issues

A. Constitutional structure

9. A constitutional committee was set up in 1954 on the recommendation of the Governor and with the approval of the Secretary of the Interior and the Samoan legislature. The Constitution was completed in 1960 after six years of debate and drafting. Ratified and approved by the Secretary of the Interior on 27 April, it was adopted by the Constitutional Convention of the Samoan people on that same day.[3] It came into effect on 17 October 1960, was revised in 1967 and was subsequently amended in 1970 and 1977. Any amendments or modifications to the Constitution of American Samoa (as approved by the Secretary of the Interior) may be made only by an Act of the United States Congress.

10. In constitutional referendums held in successive years between 1972 and 1974, American Samoans rejected a proposal to elect their own Governor. In a plebiscite held on 31 August 1976, the people of American Samoa voted to elect their own Governor and the first elected Governor was sworn in on 3 January 1978. The most recent election was held in November 2000. Since 1981, American Samoa has also elected, by direct vote, a non-voting delegate to the United States House of Representatives, who can, however, vote in committees. The current delegate was re-elected in November 1998.

11. As American Samoa is an unincorporated and unorganized Territory of the United States, not all provisions of the United States Constitution apply. Residents of American Samoa are not United States citizens. Residents of United States Territories cannot vote in the United States general election but are permitted to participate in presidential primaries and caucuses. They are United States nationals who can freely enter the United States and work and reside anywhere they choose. Because of the Territory's status, American Samoans have their own immigration laws, and entry into American Samoa by foreigners is not the same as entry into the United States (in contrast with Guam, where United States immigration laws apply).[2]

12. The Constitution provides for separate executive and legislative branches and an independent judiciary. All American Samoans over 18 years of age are eligible to vote.

13. The executive branch comprises a Governor and a Lieutenant-Governor elected for four years by universal adult suffrage. The Governor is responsible for executing both the American Samoan code and executive rules as well as those United States laws and portions of the United States Constitution that are applicable to American Samoa.

14. There is a bicameral legislature, known as the Fono, which comprises an 18-member Senate and a 20-member House of Representatives. The members of the House of Representatives (the lower House) are elected by popular vote, while members of the Senate are chosen by traditional tribal councils. Only *matais* (or chiefs) can become senators. Legislative reappointment is effected at least once every five years. The Fono may pass laws with respect to all local affairs, provided its laws are not inconsistent with United States laws in force in the Territory or with United States treaties or international agreements. The Fono convenes for two 45-day sessions a year.

B. Legal system

15. The Chief Justice and the Associate Justices of the High Court are appointed by the United States Secretary of the Interior. The judiciary consists of the High Court, which has jurisdiction throughout the Territory. The High Court is divided into appellate, trial and land and titles courts. District and village court judges are appointed by the Governor of American Samoa subject to approval by the Senate of American Samoa. Since American Samoa is not part of a United States federal judicial district or circuit, there are no

statutory provisions for appealing decisions of the High Court.

C. Political parties and elections

16. Elections were held on 7 November 2000 for the posts of Governor and Congressional Representative, as well as for all 20 seats of the House of Representatives. The incumbent Governor, Tauese P. F. Sunia, won re-election by 50.7 per cent of the vote; his nearest opponent, Senator Lealaifuaneva Peter Reid, won 47.8 per cent. The official results were not certified until 8 December, following consideration of challenges raised by Senator Reid as a result of the closeness of the tally.[4]

17. The incumbent Congressional Representative, Eni F. H. Faleomavaega, who has represented American Samoa in Washington, D.C. for the past 12 years, was also re-elected. His failure to obtain a simple majority in the first round, however, led to a 21 November run-off between Mr. Faleomavaega and Mr. Gus Hannemann, who had obtained the second largest number of votes on 7 November. Mr. Faleomavaega won 61.1 per cent of the vote to Mr. Hannemann's 38.9 per cent in the run-off, and thus was returned to Congress.

18. In elections for the American Samoa House of Representatives, of the 20 seats contested 12 incumbents were re-elected. Only one woman was elected among the five who ran; the previous House did not have any woman representatives.

19. The composition of the Senate also changed; 5 of the 18 incumbents continued and 8 new Senators were selected by their communities. The remainder of the seats were not decided, according to the latest information available.

20. The total number of registered voters for the 2000 elections was 15,592, a 7.4 per cent increase over registration for the 1998 elections.

D. Political issues

21. The main business of the Government is the management and distribution of federal income and capital subsidies. Civil service workers enjoy the highest wage rates in the Territory, making government work by far the most attractive job option for American Samoans. Many American Samoans with advanced degrees from the United States return to the Territory to work for the Government. A number of expatriates also work for the Government, especially in areas such as financial services where local expertise is scarce.

22. The Government of American Samoa is highly centralized and performs all basic government functions. It is also the largest employer.[2] At the end of 1998, the number of employees in the Government of American Samoa reached 4,788. The Government also manages power, water and sewer systems through the American Samoa Power Authority.

23. The traditional communal system provides the basis for a strong Government whereby leaders are responsible not only for preserving the social order but also for the economic welfare of the extended family. The federal Government underwrites most of the cost of preserving this system. This affiliation allows the United States to have access to and use of the Territory for defence and other purposes.

III. Budget

24. As reported in the previous working paper (see A/AC.109/2000/3, paras. 29-33), American Samoa's public finances are threatened by possible federal budget cuts, a rising population, falling revenues and management inefficiencies. In the short term, the Government faces constant cash-flow problems that result in higher prices of contracted supplies, delayed payments to government workers and delayed tax refunds. The dominating presence of the territorial Government in the economy as a whole compounds the general effect of the Government's financial weakness. In his budget statement on 8 January 2001, Governor Sunia said, "We are far from being financially sound. We still live on a hand-to-mouth financial state. Every other week we struggle to meet our payroll".

25. The Government is also caught between fiscal reform measures it has adopted, which are expected to be good for the Government in the long-term, but which exacerbate short-term cash-flow problems.[5] The territorial Government fears that its long-term fiscal situation might deteriorate as a result of the federal Government's proposals to reduce both government spending and tax rates, effectively increasing the gap between spending and revenues in American Samoa. (Currently any changes in the United States Tax Code

would be binding on American Samoa, as according to local law the United States code is automatically adopted by the territorial legislature as the local tax code.)

26. In the review period, some steps have been taken to address these problems. The Governor established the Territorial Office for Fiscal Reform, which will focus on compiling a comprehensive financial reform plan to be submitted to the legislature in July 2001. The Governor also announced his intention to establish an Office of Revenues, separate from the Department of the Treasury, but comprising the tax, customs, and revenue offices of the Department. The Governor stated that separating revenue collections from disbursements would introduce a higher level of accountability to the Territory's fiscal system.

27. In September 2000, the Governor proposed a total budget of $201.5 million. This includes $73.6 million for basic government operations, $10.4 million in capital improvement projects and $74.5 million in Enterprise Funds (public funds intended to facilitate private investment in poorer areas). Government operational expenditures are about 9 per cent lower than in the previous year, in keeping with a target set by the Governor.[6] The Senate later reduced the budget by $1.3 million, anticipating lower revenues than the Governor had.[7]

28. On the revenue side, the Government of American Samoa anticipates raising about $50 million in local revenues; the $23 million shortfall in operating costs will be met by a grant from the United States Department of the Interior. American Samoa will continue, therefore, to be the only United States Territory to receive direct financial aid from the federal Government for its operating costs. Capital improvement projects and Enterprise Funds are also federal projects. In June, the Territory's congressional delegate, Eni Faleomavaega, said that the United States House of Representatives Appropriations Committee had threatened to cut funding for fiscal year 2002 if American Samoa did not implement fiscal reforms by 2001.[8]

29. Some short-term cash-flow problems are expected to be alleviated by several developments affecting revenue during the review period:

(a) In June 2000, the Government was able to refinance a number of outstanding loans by issuing municipal bonds. The transaction is expected to save the Government $365,000 per year over the next eight years in reduced interest payments;

(b) The Government arranged to borrow $18.6 million from the Department of the Interior. This so-called "tobacco loan" will be repaid over the next 26 years with proceeds from American Samoa's share ($37 million) of the settlement from a multi-state suit against tobacco companies;[9] most of the money will be used to repay debts to vendors incurred prior to 15 April 1999;

(c) In October 2000, $2 million earmarked for American Samoa that had been frozen two years earlier by the United States Congress to pressure the Government to pay debts owed to off-island hospitals (see A/AC.109/2000/3, para. 27), was agreed to be released;[10]

(d) Also in October, a California Court of Appeals ruled in favour of the territorial Government in a suit that the Government had brought against an insurance company. The Government had charged that the company did not pay for damages owed as a result of a 1991 hurricane. The appeals court upheld a lower-court ruling that the company owed the Territory $47.9 million in basic damages. The entire amount will be used to cover lawyers' fees and debts to the Federal Emergency Management Agency, which had lent money to the Territory on the condition that it would be repaid if the lawsuit was successful. The Territory may still receive an additional portion of $82 million in punitive damages that it claimed;[11]

(e) The United States Internal Revenue Service began transferring to American Samoa payments for the federal child tax credit programme. The Government of American Samoa had protested that this programme had an unfunded mandate, as it required the local Government to pay the credits but did not provide it with the resources to do so. The Government estimates that it will receive between $3 million and $4 million in payments from the Internal Revenue Service to pay what it owes to taxpayers;[12]

(f) In April 2001, the American Samoa legislature authorized the territorial Treasurer to borrow up to $5 million from the Bank of Hawaii as protection against fluctuating and inconsistent revenue streams, and in particular to allow it to cover its bi-weekly payroll (salaries being the Government's largest budget item).[13]

30. Notwithstanding these unexpected revenue resources, the head of the Territorial Office for Fiscal Reform still estimated a revenue collection shortfall of $10 million for fiscal year 2000. He cited poor past financial records as a reason for the difficulty in making accurate revenue projections, and noted the unlikelihood of any of the annual financial reports since 1997 being complete enough to be auditable.[14] In his January 2001 statement, the Governor noted abuses in hiring and personnel matters that had greatly inflated expenses and needed to be addressed. He proposed a law containing clear penalties for violations of the Budget Act. Other proposals by the Governor to promote fiscal discipline included: improving procurement practices, strictly enforcing overtime payments, taxing profits of fishing vessels and off-island companies that sell services, such as insurance, on the island and reducing income tax fraud.

IV. Economy

A. General

31. The Bank of Hawaii explained in its 1997 Economic Report that "reliable economic information on American Samoa is scarce and often dated. In recent years, the American Samoan Government has attempted to put together statistics on the economy and labour force, but what is published is available often two or three years after the close of the calendar year. The information vacuum makes analysis of the American Samoan economy incomplete and, by necessity, more qualitative than quantitative."

32. Economic activity is strongly linked to the United States, with which American Samoa conducts the great bulk of its trade. Tuna fishing and tuna processing plants are the backbone of the private sector, with canned tuna as the primary export. Attempts by the Government to develop a larger and broader economy are constrained by American Samoa's remote location, limited transportation and devastating hurricanes.

33. Prospects for agricultural development are limited owing to the small amount of land suitable for cultivation. About 93 per cent of American Samoa's economy is based on United States federal expenditures and the canning industry, while the remaining 7 per cent stems from a small tourism industry and a few businesses. Local businesses are small and sell exclusively to the local market.[15] They face high costs owing to limited access to capital and the need to import most goods and raw materials. They are also vulnerable to competition from neighbouring islands with lower wage levels and from larger, more efficient businesses in the United States.

34. The largest trading partner of American Samoa remains the United States, followed by New Zealand, Australia and Fiji. Imports are mainly food (22 per cent) and petroleum products (17 per cent), machine parts, building materials, textiles and clothing; canned tuna accounts for 97 per cent of exports.[15]

35. In his January 2001 state of the Territory address, the Governor said that the local economy had been healthy over the past several years in large part because of the booming United States economy. He noted that more and more business licences had been issued annually, and that demand for employment remained high. The construction and fishing industries had continued their strong growth, although some manufacturing ventures had not been as successful as hoped (see para. 43 below). He noted that tourism was an underdeveloped sector in which he expected improvement soon.

36. According to the most recent figures available, in 2000 inflation in the Territory remained very low — at 0.6 per cent. The cost of living has risen only by 2.3 per cent over the past two years. The only significant price rise occurred in the alcohol and tobacco group of products, which increased by 27 per cent over the past two years. This reflects increases in both wholesale prices and additional taxes.[16] (For information on unemployment, see para. 70 below.)

B. Economic sector

1. Agriculture and fisheries

37. According to local press reports, in a comprehensive economic development strategy for American Samoa released in April 2000, it was noted that 90 per cent of the Territory's economy and one third of its workforce was dependent on the fishing industry.[17] It is estimated that American Samoa's domestic commercial fishing fleet consists of 47 small catamarans equipped for longlining. New fishery development projects funded by the United States Administration for Native Americans are aimed at revitalizing American Samoa's fishing heritage.

Several non-profit organizations have undertaken projects to provide boats and train young American Samoan fishermen that will target fresh fish for export as well as develop seafood processing enterprises for pelagic fish.

38. These initiatives are complemented by an amendment proposed by the Western Pacific Fishery Management Council to the Pelagic Fisheries Management. It aims to restrict vessels larger than 50 feet from fishing within 50 nautical miles of most of the American Samoan islands as well as to safeguard American Samoan fishing communities by encouraging the domestic harvest of pelagic fish. A revised amendment is pending approval by the Secretary of Commerce following approval by the National Marine Fisheries Council in October 2000.[18]

39. The harbour at Pago Pago gives the Territory a natural advantage with respect to landing fish for processing. This harbour, together with the special provisions of United States law that protect the industry, forms the basis of American Samoa's largest private industry which is now more than 40 years old. The Territory is exempt from the Nicholson Act, which prohibits foreign ships from landing their catches in United States ports. The parent companies of American Samoa's fish processing plants enjoy special tax benefits and reduced labour costs. The two canneries employ some 4,000 workers, most of whom are from independent Samoa, although all pay taxes to the Government of American Samoa. However, the comprehensive economic development strategy (see para. 37 above) warned that American Samoa's advantages in the industry were being eroded by recent trends in world trade, in particular the trend towards lower tariffs between the United States and its trading partners, which eliminated American Samoa's advantage as a United States Territory.

40. American Samoa's tuna processing industry is the fourth largest in the world. The most recent available statistics indicate that, in 1994, American Samoa shipped to the United States 211.6 million pounds of canned tuna worth $309.5 million (see A/AC.109/2023, paras. 16-17).

2. Manufacturing/industry

41. Apart from fishing and fishing-related industries, other industrial activities in American Samoa are mostly service-oriented. There are a number of small factories processing soap, perfume and alcohol. High costs and distance to markets restrict the ability of local businesses to export. They remain vulnerable to competition from those neighbouring islands with lower wage levels, and from larger, more efficient business in the United States. The disadvantages of a remote location, lack of skilled manpower, limited infrastructure and the lack of significant comparative advantages over other Pacific sites have yet to be overcome.[19]

42. According to a 1999 report from the United States Department of the Interior, Office of Insular Affairs, three local investors had shown an interest in establishing food processing plants in the Territory. Of the three proposals, the sausage plant is already under way in developing its product to meet local demands.

43. The Governor noted in his state of the Territory address on 8 January 2001 that efforts to develop a garment manufacturing industry had suffered a major setback. Over the past several years, at least three companies had been given permission to set up garment-making facilities under advantageous tax and immigration conditions. They had been allowed to employ foreign workers from Asia for several years on the presumption that the companies would train Samoans to eventually replace them, thus establishing a local garment industry that would benefit local workers. Instead, one company had left the island when the Government did not accede to its request to prolong its favourable immigration status, another had its articles of incorporation revoked owing to illegal activities and a third went bankrupt after riots by its workers (see para. 73 below). In the meantime, because of the exemptions, none of these companies paid taxes to the Government, nor did they train or hire a significant number of Samoans. In rejecting a bid by a New York-based company to take over the bankrupt garment factory and run it with workers brought from Asia, the Governor in February 2001 said that foreign-owned garment factories would no longer be allowed to operate in American Samoa.

44. The Governor noted in his 2000 state of the Territory address that the construction industry had continued to expand. He noted, however, that that was largely a result of the continued allocation of federal funds for the construction of roads, schools and hospitals.

45. In other sectors, according to the Department of Commerce, Office of Tourism, business is growing in Samoa. There are over 1,900 licensed businesses. Besides the two industry giants Van Camp and Star Kist, businesses include auto dealerships, communications, restaurants, import/export, warehouses, wholesalers, airlines, computers, clothing, produce, catering, construction, heavy equipment, rentals, theatres and handicrafts.[20]

3. Tourism

46. Despite the Government's efforts to encourage tourism, the industry remains relatively small. According to the United States Department of the Interior, tourist arrivals totalled 5,800 in 1995, a decline of about 1,500 from the 1992 figure and about half the visitor level in 1991. More recent statistics are not available.

47. American Samoa has little tourist infrastructure, with only one hotel (80 per cent government-owned) and a total of 260 hotel/motel rooms in Tutuila and Mau'a. In October 2000, the United States Department of Agriculture agreed to guarantee a loan to a local company to build a 105-room hotel in Ottoville, the first such guarantee to be approved for American Samoa. According to the company, all other approvals necessary had been granted, and construction on the $7 million project was expected to begin in early 2001.[21]

48. According to the Department of the Interior, in addition to its need for upgraded tourist facilities, the tourism industry needs increased promotion, improved skills training and increased international air travel services.

49. According to the Bank of Hawaii's 1997 Economic Report, the Rainmaker (American Samoa's only hotel), has in the past attempted to privatize or to sell the facility. Privatization efforts during the review period continued to face problems. In response to a government request for proposals to buy the hotel, only one prospective buyer submitted a bid before the 20 April 2001 deadline, despite the Government's indications that up to 12 parties had shown an interest.[22] In the meantime, a report submitted to shareholders in March 2001 revealed that the hotel had lost more than $200,000 during the previous year.[23]

50. Development of ecotourism is one of the most promising growth areas and it has community support. A major development in this direction was the establishment of the National Park of American Samoa in 1993. Except for American Memorial Park in Saipan, this is the only national park in which the federal Government does not own the land but had a 50-year lease from the American Samoa Government on behalf of the eight villages in the park. The park's 8,000 acres are spread over three islands and include 1,000 acres of the finest coral reef in the United States national park system.

C. Finance

51. The Bank of Hawaii and Amerika Samoa Bank provide full international banking services with correspondent banks in the United States and the Pacific region. Automated teller machine service is also provided at the respective branches.[20]

52. In November 2000, two of three federal regulatory agencies approved the sale of Amerika Samoa Bank to Australia New Zealand (ANZ) Bank. The Federal Insurance Depository Corporation and the United States Federal Reserve have approved the sale, while approval from the United States Securities and Exchange Commission is still pending according to the latest information available. ANZ announced in late 1999 its intention of acquiring the bank.[24]

53. A local group called South Pacific LIFE was given permission by the National Credit Union Administration in October 2000 to open a credit union for low-income families. The decision had taken into account concerns about the recent failure of the now-closed American Samoan Government Employees Credit Union, which had been investigated for non-conformance with its charter and federal regulations.

54. American Samoa, however, was not affected by a recent decision by the Bank of Hawaii for financial reasons and because of concerns about political stability to divest from the Pacific region, resulting in the closure of branches in French Polynesia, New Caledonia, Papua New Guinea and Solomon Islands. The bank decided to retain, in addition to its Hawaii operations, only its Tokyo and American Samoan operations.[25]

D. Transport and communications

1. Roads

55. There are approximately 150 kilometres of paved roads and 200 kilometres of secondary roads in American Samoa. According to the Governor, the number of registered vehicles in 1996 was 6,200.

56. The roads designated as federal highways are eligible for improvement using United States federal highway aid funds, but other roadways are the responsibility of the territorial Department of Public Works (see A/AC.109/2024/Add.1, paras. 38-40). The highway system in American Samoa is generally in poor shape owing to the effect of hurricanes, the age of the roads, inadequate maintenance and past road construction standards that did not meet current heavy traffic loads.

57. The Federal Highways Administration gave American Samoa $100,000 in 2000 to pave roads in the Manua Islands (Ofu, Olosega, and Tau), in particular on the smaller islands of Ofu and Olosega. This grant is separate from the $6 million main road-building project on Tau currently under way.[26] In October 2000, it was announced that American Samoa would receive more than $300,000 from the United States Department of Transportation for the identification of highway safety problems and the setting of performance measures to improve highway safety. Such funds are provided each year to all states and territories, according to a statutory formula based on population and road mileage, and at least 40 per cent of these funds must be used for local and community projects.[27]

2. Seaports

58. Pago Pago harbour is an all-weather deep-draught harbour. The main dock is 1,000 feet long, handling ships of up to a 32-foot draught. Pago Pago harbour provides the full complement of equipment and facilities and has a ship repair facility with a 3,000-ton marine railway. The port provides full port facilities, containerized cargo holding, warehousing, trans-shipment operations and tugboat services.[20]

59. However, the general condition of the port continues to deteriorate as a result of an inadequate maintenance budget. In September 1999, the Governor issued an executive order allowing the Department of Port Administration, rather than the Treasury, to handle its revenues so that payments to vendors may be made more efficiently. The Port Director noted in July 2000 that this had enabled the port to make timely payments for all its projects.[28]

3. Airports

60. Pago Pago International Airport is owned and operated by the territorial Government under the Department of Port Administration. It is well maintained, but needs a runway extension to allow fully loaded cargo and passenger aircraft to land and take off. The Federal Aviation Administration has approved funding for extending the runway an additional 1,000 feet, and $5.2 million was allocated in July 2000 by the United States Department of Transportation for this purpose.[29] At the same time, $3.7 million was allocated to extend the runway at Fitiuta Airport on Tau island, accommodating larger aircraft to land with improved safety margins.[30] There are two smaller airstrips, on the islands of Ofu and Tau. Although both have terminal buildings to handle passengers and cargo, currently they can handle only light aircraft (see A/AC.109/2044/Add.1, para. 48).

61. The Pago Pago airport has a tower with a Federal Aviation Authority controller. Pago Pago International Airport is regularly served by a number of airlines that link American Samoa with Hawaii and the United States mainland and other countries in the South Pacific. Hawaiian Air provides direct air service to Honolulu. Polynesian Airlines, Air New Zealand and Air Pacific provide regional air service to New Zealand, Australia, Fiji, Vanuatu, Tonga, New Caledonia, Tahiti and the Cook Islands.[20]

4. Communications

62. American Samoa, through the overseas communications satellite corporate link, has direct telephone dialling to most countries. There is a choice of mobile telephone service providers. Internet service to the World Wide Web is provided by the Office of Communications, American Samoa Government.[20]

63. There are several weekly newspapers in the Territory in both the English and the Samoan languages. There is also a daily newspaper, the *Samoa News*, in English, which also publishes a section in the Samoan language. Television, including programmes from the United States, and radio are also available.

E. Water, sanitation system and utilities

64. The American Samoa Power Authority (ASPA), which is government-owned, provides water, waste-water, solid waste and electric services to customers on five of the seven islands.

1. Water

65. The ASPA Water Division is responsible for providing safe drinking water to 90 per cent of the Territory,[20] with the remaining part being serviced by outer-village systems. It is responsible for restoring, maintaining and protecting the water supply during natural and man-made breakdowns. The daily capacity of the water system is 8.0 million gallons per day from high-quality groundwater and surface sources. Water rates are $1.25 per 1,000 gallons.

2. Electricity/power

66. ASPA generates, transmits and distributes electric power throughout American Samoa (see A/AC.109/2044/Add.1, para. 35). ASPA has a total of 31 megawatts of capacity. In 1996-1997 the rate was $0.1371 per kilowatt hour plus a $0.00720 per kilowatt hour fuel surcharge based on the changes in the cost of diesel to the Territory. In July 2000, ASPA urged its customers to conserve as much electricity as possible given the doubling of the price of fuel since April 1999.[31]

67. The electric system, power plants and power lines have been reconstructed to withstand hazards such as cyclones, earthquake and tsunami. Overhead power lines are also being rebuilt to Rural Utility Service standards so as to withstand cyclones with wind speeds up to 150 miles per hour.

3. Sanitation

68. The solid waste division of ASPA is responsible for management of the solid waste contract, management and maintenance of landfills, collection of solid waste, solid waste transfer stations and collection of scrap metal.

69. The Waste-Water Division of ASPA operates and maintains the two main sewer systems and satellite systems in Aunuu and Faga'itua. It maintains the lift stations and treatment plants, the sewer system pipes, standby generators and septic tanks.

V. Social conditions

A. Labour

70. The Territory is characterized by a low per capita income and a significant unemployment rate.[15] The Government of American Samoa stated in January 2000 that after years of a high unemployment rate (over 16 per cent in 1993), unemployment was well below 10 per cent.[32] According to the Governor, 70 per cent of the workforce in the private sector consists of foreign workers from outside American Samoa (see A/AC.109/2023, para. 31).

71. American Samoa is one of the two United States Territories in which employers are allowed to pay workers less than the mainland minimum wage to ensure compatibility with the prevailing cost of living. Wages in the Territory are set not by federal law but by recommendation of a special United States Department of Labor committee that reviews economic conditions every two years and establishes minimum wages by industry. In 2000, minimum wages in American Samoa were set at $2.50 per hour for the miscellaneous category to $3.97 for shipping and transportation. The total cost of the increase to employers was estimated at $1.4 million.[33]

72. In September 2000, monthly payments to retirees were increased by 0.6 per cent, the biggest increases going to those who had retired the earliest; supplementary benefits were also provided to retirees receiving the lowest benefits.[34] In December 2000, Social Security monthly payments were increased by 3.5 per cent to all the recipients in the Territory.[35]

73. There were incidents of labour unrest in the Territory related to a government-sponsored attempt to launch a garment manufacturing sector by allowing foreign companies to set up factories and to employ foreign workers (see para. 43 above). Daewoosa, a company based in the Republic of Korea, opened a garment factory in February 1999 using Vietnamese workers for whom immigration restrictions were waived by the Government of American Samoa. Following numerous complaints of non-payment by the workers, the United States Department of Labor ordered Daewoosa to pay back wages of $151,500 in May 1999 and $367,000 in June 2000.[36] Subsequently, following other complaints, including reports of beating and harassment,[37] a riot broke out at the factory causing 10 workers to be hospitalized. In early January

2001, the workers launched a class-action suit against the company.[38] At the end of January, the factory was closed, leaving over 200 foreign workers stranded and 84 Samoan workers jobless.[39] In April 2001, the factory's owner was arrested in American Samoa by the United States Federal Bureau of Investigation on charges of involuntary servitude and forced labour.[40] Both the class-action suit and the case against the factory's owner were pending at the time of writing.

B. Education

74. The literacy rate in the Territory is 97 per cent. Education is compulsory between 6 and 18 years of age. The educational system in American Samoa is broadly based on the United States pattern of eight years' attendance in elementary school and four years' enrolment in high school. In the academic year 2000/01, enrolment in public schools reached 17,000 students.

75. In his budget address on 8 January 2001, the Governor said that significant advances had been made in the educational system over the previous year. Approximately 50 teachers had earned baccalaureate degrees from the teacher-training programme at the University of Hawaii. Thirty-eight new classrooms had been constructed in elementary schools, as well as a new complex for the Tafna High School. The Governor also noted that major changes in the educational system had been introduced three years earlier, and that the use of United States curriculum and materials had produced good results, with American Samoa students demonstrating a high level of achievement in national tests in 2000.

76. The American Samoa Community College, established in 1970, offers two-year degree courses in arts and sciences and programmes offering certificates of proficiency in vocational and clerical skills, business and nursing. In the academic year 1998/99, the College's enrolment was about 770 students. At the end of 2000, the College started construction of a new state-of-the-art library, for which $1.4 million in federal funds had been secured.[41]

77. In November 2000, the Governor signed into law the establishment of the American Samoa Cultural Arts Academy. A grant of $100,000 was obtained from the United States Administration for Native Americans for the project. The Academy will focus on the revival and preservation of the Samoan language, material culture and values.[42]

78. In September 2000, the Director of Education announced that four new early childhood education centers would be built in the Territory with construction funds from a federal grant of $1 million. The 55 early childhood education centers currently existing in the Territory are all situated in privately owned buildings.[43]

C. Public health

79. The main hospital in the Territory (see A/AC.109/2080, paras. 26-28), the Lyndon Baines Johnson Tropical Medical Center, has 140 beds and a staff of 25 physicians. Medical, dental and pharmaceutical services are available 24 hours a day at minimal cost to residents and visitors. For serious cases, off-island treatment, including hospitalization in Guam, Hawaii or the United States mainland, is provided free of charge.

80. Most social programmes in the Territory, including those related to public health, are funded by the federal Government.

81. The most serious health issues are related to the increase in chronic and lifestyle-related non-communicable diseases; substance abuse is also a growing concern. The control of non-communicable diseases through public awareness and health education programmes is a major public health objective.

82. The territorial Department of Health defined the following health development priorities for 1998-2002: surveillance and control of serious emerging and re-emerging infectious diseases; strengthening primary health services, health infrastructure and community health centre development; development of human resources for health; community involvement in health improvement; rational use of health resources; information-based decision-making; and promoting collaboration in health development.

83. In February 2001, the United Sates Department of Health and Human Services approved a grant of $70,538 for American Samoa under the new National Family Caregiver Support Program, to help provide home care for the elderly.

84. In May 2001, the Coalition on Teen Pregnancy Prevention was created in the Territory with the

objective of finding solutions to the increasing problem of teen pregnancy through the implementation of special programmes and the promotion of community awareness. The coalition includes over 20 representatives from government agencies, the hospital, and churches.[44]

85. The 1999 report of the World Health Organization did not show any recorded cases of HIV/AIDS in American Samoa. In October 2000, the Chairman of the Territory's HIV/AIDS Prevention Community Planning Committee stated that the Territory had no locally contracted cases of HIV. The Committee conducted an active educational campaign in schools, churches, and youth groups on HIV/AIDS prevention. The Committee also participates actively in related regional activities.[45]

D. Housing

86. During his state of the Territory address in January 2000, Governor Tauese stated that the Department of Public Works reviewed an average of five proposals a year for licences to build private homes, private schools and churches. According to the 1996 *American Samoa Statistical Digest* (the last published), the Department approved 158 new structures in 1995 and issued over 560 other building permits for repairs and other projects.[46] In 1994, a total of 674 land-use permits and 187 permits for new structures were issued. The total estimated value of all construction, excluding government projects was, $14 million.[47]

E. Immigration

87. American Samoa has its own immigration laws. In 1985, the territorial Government set quotas to regulate the number of foreigners entering the Territory annually to work. The quotas allow the admission of 1,000 persons from Samoa and 400 from other countries. Only American Samoans, United States citizens and nationals, and licensed companies can sponsor foreign workers (see A/AC.109/2023, paras. 32 and 33).

88. In September 2000, the American Samoa House of Representatives passed a bill restricting immigration. The bill would remove entitlements for children of migrants to free public education, would impose tighter conditions on individuals sponsoring aliens for domestic help, and would allow only companies that were at least 51 per cent Samoan-owned to sponsor aliens for work. The bill would also impose a $500 "immigration bond" in addition to the financial guarantees for medical care and repatriation that are currently required. The bill responds to recent complaints by Samoan lawmakers that an excessive number of aliens are employed by local business and by the Government.[48] In addition, as noted in paragraph 73 above, the waiving of immigration requirements to permit the entry of foreign workers has led to significant labour problems in the Territory.

F. Crime

89. In his annual address in January 2001, the Governor noted that during the past year there was an increase in the crime rate, in particular in the categories of violent crime, sexual crime and abuse of minors. The Governor said that the approval by the Secretary of the Interior of the new structure for the Territory's judicial system was expected. This new structure is intended to alleviate the existing excess load on the local courts of family related cases. The Government was also planning to improve police training so that the prevention of drug abuse and social unrest could be more effective.

90. According to the local media, in general the most common offences are disorderly conduct, assault, burglary, larceny, drunken driving, property damage and sex-related offences. In 1998, the Governor established the Office of Territorial and International Criminal Intelligence and Drug Enforcement, which was to operate independently of the regular police.

VI. Environment

91. The American Samoa Department of Commerce oversees all construction or earth-moving activities in the Territory and tackles concerns of fishery habitat loss, coastal hazards, including hurricanes, flooding and erosion, marine debris and solid waste. Eight local government agencies review major land activities.[20]

92. During the 2000 election campaign, polls conducted by a local newspaper showed that the majority of the population wanted the Government to increase efforts to protect the environment. Only 20 per

cent considered that the Government was doing enough in that area.[49]

93. According to a World Wildlife Fund report issued in February 2001, American Samoa contains one of the 10 most vulnerable forests in the world. The report states that currently only 0.2 per cent of the Territory's forest is protected. The Forest Service of the United States Department of Agriculture, in partnership with the territorial Government, has been implementing a number of programmes aimed at promoting the health and productivity of the Territory's forest lands. These programmes are focused on public education and tree planting, agroforestry, water resources, coastal stabilization, community beautification, late successional rainforest tree species, wood products, wildlife and conservation practices. The main objectives for 2001 include: the establishment of territorial regulations or legislation aimed at saving the threatened lowland rainforest areas; providing education to native American Samoans and recruiting staff for the forestry extension programme; enhancing technical skills through training programmes; completing a forest inventory, which will assess changes in forest dynamics and locate the most severe threats; and improving collaborative partnerships through combined Territory-wide programmes and projects.[50]

94. To help mitigate the effects of human use, the American Samoa Coastal Management Program was established for the coastal zone, which includes all land (126 miles of coast) and sea within 3 miles of the shoreline. The key legislation is the American Samoa Coastal Management Act of 1990. During the past year, the Government of American Samoa made an effort to protect the Territory's coral reefs and was actively involved in the work of the Coral Reef Task Force. In July 2000, the Governor issued an executive order prohibiting the collection and export of coral. The new order is based on the local laws under which the local marine resources and their habitats, as well as coral reefs, are protected from over-harvesting and degradation. According to the Governor, the coral reefs were "seriously over-fished".[51]

VII. Relations with international organizations/arrangements

95. American Samoa is a member of several regional organizations, including the South Pacific Commission, the Pacific Basin Development Council, the Pacific Tuna Development Foundation, the Pacific Islands Association, the Asian-South Pacific Bureau of Adult Education, the Pacific Asia Travel Association, the South Pacific Regional Environment Programme and the Council of Pacific Arts. It also belongs to such United States organizations as the National and Western Governors' Conferences. The Government of American Samoa has signed memoranda of understanding with the Governments of Samoa and Tonga on mutual economic cooperation and has sent trade missions to a number of countries in the Pacific region.

96. In August 1991, American Samoa, together with two other Territories administered by the United States, Guam and the United States Virgin Islands, established the Alliance of Dependent Territories, an organization that seeks to promote friendly relations and economic and technical cooperation among its members.

97. American Samoa participated as an observer in the Preparatory Committee for the Global Conference on the Sustainable Development of Small Island Developing States, as well as in the Conference itself, which was held in Barbados from 25 April to 6 May 1994.

98. American Samoa belongs to various regional bodies of the United Nations system, including the World Health Organization (WHO), the Regional Office for the Western Pacific and the WHO Pacific Regional Centre for the Promotion of Environmental Planning and Applied Studies. The Territory has been an associate member of the Economic and Social Commission for Asia and the Pacific since 1988 (see A/AC.109/2023, paras. 40-43).

VIII. Future status of the Territory

A. Position of the territorial Government

99. In a statement made in 1993, the Lieutenant-Governor of American Samoa indicated that American Samoa preferred to remain a Territory of the United

States (see A/AC.109/1159, paras. 25-31). This position remains unchanged.

B. Position of the administering Power

100. On 25 September 2000, the representative of the United States made a statement before the Fourth Committee of the General Assembly with regard to all United States Territories (A/C.4/55/SR.3). He said that although his country continued to believe that the standards applied in General Assembly resolutions 1514 (XV) and 1541 (XV) were too narrow, it offered its full support to countries that chose independence. For Territories that did not choose independence, the United States fully supported the right of the peoples of those Non-Self-Governing Territories to a full measure of self-government if that was what they chose. His country did not believe that a single standard of decolonization applied to every Territory. He also said that at the close of the International Decade for the Eradication of Colonialism, tremendous progress was occurring in the lives of the peoples of the Non-Self-Governing Territories, and that for his country the term "non-self-governing" was of questionable applicability to those who were able to establish their own constitution, elect their own public officers, to have representation in Washington, D.C., and to choose their own economic path.

101. The representative also said that in his Government's opinion the mere presence of military interests in Non-Self-Governing Territories was not detrimental to the interests of such Territories or their peoples. On the contrary, such relationships formed the basis of partnership between individual regions and the outside world. Investment and economic activity did not necessarily constitute an obstacle to independence. His country's hope for the coming year was that the Special Committee would focus its efforts on the Territories included in the list of Non-Self-Governing Territories and not be side-tracked by other issues.

C. Consideration by the United Nations

102. In its report to the General Assembly at its fifty-fifth session (A/55/23, para. 87), the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples stated that during 2000 the Special Committee and the administering Powers had agreed, on an informal basis, on a non-paper outlining a general work programme that would serve as a reference in the preparation of individual work programmes for specific Territories. The Special Committee and the administering Powers had also agreed to prepare work programmes for American Samoa and Pitcairn. It had also been agreed that the administering Powers would ensure the participation of representatives of these Non-Self-Governing Territories at every stage of discussions. In a statement to the Fourth Committee of the General Assembly on 25 September 2000, the Chairman of the Special Committee said that a general work programme had been agreed upon as a starting point for discussions on American Samoa with the delegation of the United States of America (see A/C.4/55/SR.3).

103. On 8 December 2000, the General Assembly adopted without a vote resolutions 55/144 A and B, a consolidated resolution on 11 Non-Self-Governing Territories, section I of Assembly resolution 55/144 B being devoted specifically to American Samoa.

Notes

[1] The information contained in the present working paper was derived from published sources.

[2] Bank of Hawaii, 1997 Economic Report: American Samoa.

[3] Patricia Larkin and Gary Chung, *Constitutions of Dependencies and Special Sovereignties* (Dobbs Ferry, New York, Oceana Publications, February 1986).

[4] Pacific Islands Development Program/East-West Center, Center for Pacific Island Studies/University of Hawaii at Manoa (PIDP/CPIS), 10 December 2000.

[5] *Samoa News*, 15 March 2000.

[6] Ibid., 12 September 2000.

[7] Ibid., 27 September 2000.

[8] Pacific Islands Report, 20 June 2000.

[9] *Samoa News*, 22 and 24 March and 10 October 2000.

[10] Ibid., 13 September and 10 October 2000.

[11] Ibid., 11 and 12 October 2000.

[12] PIDP/CPIS, 10 January 2001.

[13] PIDP/CPIS, 1 April 2001.

[14] *Samoa News*, 26 September 2000.

[15] Submission by the United States Government under Article 73 *e*, April 1999.

[16] PIDP/CPIS, 10 May 2000.

[17] *Samoa News*, 5 April 2000.

[18] Ibid., 4 October 2000.

[19] Ibid., 16 February 2000.

[20] Samoanet.com.

[21] *Samoa News*, 25 October 2000.

[22] Ibid., 26 April 2001.

[23] Ibid., 16 April 2001.

[24] Ibid., 7 November 2000.

[25] Agence France-Presse, 25 April 2001.

[26] *Samoa News*, 8 September 2000.

[27] Ibid., 31 October 2000.

[28] Ibid., 28 July 2000.

[29] Ibid., 27 June 2000.

[30] Ibid., 18 July 2000.

[31] Ibid., 5 July 2000.

[32] Ibid., 14 January 2000.

[33] Ibid., 26 September 2000

[34] Ibid., 14 September 2000.

[35] Pacific Island Report, 27 December 2000.

[36] United States Department of Labor, Wage and Hour Division, press release, 22 June 2000.

[37] *The New York Times*, 6 February 2001.

[38] *Samoa News*, 2 January 2001.

[39] Ibid., 23 January 2001.

[40] Agence France-Presse, 16 February 2001.

[41] *Samoa News*, 20 December 2000.

[42] Ibid., 2 November 2000.

[43] Ibid., 5 September 2000.

[44] Ibid., 16 May 2001.

[45] Ibid., 25 October 2000; and Pacific Islands Report, 1 December 2000.

[46] Ibid., 12 January 2000.

[47] *American Samoa Statistical Digest*, 1995, p. 91.

[48] *Samoa News*, 13 September 2000.

[49] Ibid., 26 September and 6 October 2000.

[50] *US News and World Report*, via NewsEdge, 22 February 2001, and http://r05s001.pswfs.gov/fpm/factsheet/aamrsamoa.

[51] *Samoa News*, 12 June and 4 August 2000.